

**THE
NEWPORT
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

March 2008

CITY OF NEWPORT, TENNESSEE

MAYOR

Connie Ball

VICE MAYOR

Freddy Gregg

ALDERMEN

John Bugg

Luke Goddard

Kenny Morgan

Dennis Thornton

RECORDER/FINANCE DIRECTOR

Amanda White

CITY ADMINISTRATOR

VACANT

PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

The able assistance of the codes team: Hannah Kraemer, Program Resource Specialist; and Linda Winstead, Nancy Gibson, and Doug Brown, Administrative Specialists, is gratefully acknowledged.

Steve Lobertini
Codification Consultant

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
CITY CHARTER¹**

¹The charter for the City of Newport does not provide specific ordinance adoption procedures.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. ORDINANCES.
2. MAYOR.
3. RECORDER.
4. CITY ATTORNEY.
5. CODE OF ETHICS.

CHAPTER 1

ORDINANCES

SECTION

- 1-101. Quorum for passage of ordinances.
- 1-102. To be in writing; copies.
- 1-103. Passage on two separate days.
- 1-104. Reading of ordinance.
- 1-105. Voting procedure.
- 1-106. Veto by mayor.
- 1-107. Passage over the mayor's veto.

1-101. Quorum for passage of ordinances. No ordinance shall be passed on any reading unless at least a majority of the aldermen are present at the meeting. (1973 Code, § 2-26)

1-102. To be in writing; copies. When any proposed ordinance is presented to the board of mayor and alderman, it shall be presented in writing and individual copies thereof shall be made available for the mayor and each alderman. (1973 Code, § 2-27)

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

1-103. Passage on two separate days. Each ordinance adopted by the board of mayor and aldermen must be presented to the board of mayor and aldermen on two (2) separate days and passed on each presentation by a majority vote of the members of the board of mayor and aldermen present. (1973 Code, § 2-28)

1-104. Reading of ordinance. On each presentation of an ordinance proposed to be adopted, the caption thereof shall be read or its substance stated, but it shall not be necessary to read the proposed ordinance in full. (1973 Code, 2-29)

1-105. Voting procedure. Votes of the members of the board of mayor and aldermen on a proposed ordinance shall be taken by counting the "ayes" and "noes". The mayor shall not vote except to break a tie. (1973 Code, § 2-30)

1-106. Veto by the mayor. The mayor may veto any ordinance adopted by the board of mayor and aldermen by endorsing on the ordinance his reasons therefor and transmitting the ordinance back to the board of mayor and aldermen at its next regular meeting. (1973 Code, § 2-31)

1-107. Passage over the mayor's veto. The board of mayor and aldermen may pass any ordinance over the mayor's veto by reading it one (1) additional time and passing it by a majority vote of all the board of mayor and aldermen. (1973 Code, § 2-32)

CHAPTER 2**MAYOR¹****SECTION**

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all affairs of the city and may require such reports from the various officers and employees of the city as he may reasonably deem necessary to carry out his executive responsibilities. (1973 Code, § 2-53)

1-202. Executes city's contracts. The mayor shall execute all contracts authorized by the board of mayor and aldermen. (1973 Code, § 2-54)

¹Charter references

Duties: § 1.9.

Oath of office: § 1.8.

Qualifications: § 1.6.

CHAPTER 3

RECORDER¹

SECTION

- 1-301. To keep minutes of meetings of board of mayor and aldermen.
- 1-302. Ordinance book.
- 1-303. Tax books and records.
- 1-304. License book.
- 1-305. Itemized record of revenues and expenditures.
- 1-306. Clerical functions.
- 1-307. Issuance of process against ordinance violators.
- 1-308. Docket.
- 1-309. Contempt of recorder's court.

1-301. To keep minutes of meetings of board of mayor and aldermen. The recorder shall keep a complete minute record of all proceedings at meetings of the board of mayor and aldermen. (1973 Code, § 2-60)

1-302. Ordinance book. The recorder shall keep an ordinance book in which he shall keep the original copy of all ordinances passed by the board of mayor and aldermen. (1973 Code, § 2-61)

1-303. Tax books and records. The recorder shall keep such tax books and records as will enable him to lawfully and efficiently administer and account for the assessment and collection or delinquency of all taxes imposed by the city. (1973 Code, § 2-62)

1-304. License book. The recorder shall keep a permanent record of all licenses issued by him. The record shall be kept in a well-bound book provided for that purpose and shall reflect to whom each license has been issued, the amount of each license fee collected and such other pertinent information as the recorder may elect to include. (1973 Code, § 2-63)

1-305. Itemized record of revenues and expenditures. The recorder shall keep an itemized, permanent record of all the revenues and expenditures of the city. (1973 Code, § 2-64)

1-306. Clerical functions. The recorder shall perform all clerical duties for the board of mayor and aldermen and for the city which are not expressly

¹Charter reference

City administrator to appoint: § 1.11.

assigned by the charter or this code to another corporate officer; he shall also have custody of and be responsible for, maintaining all corporate bonds, records and papers. (1973 Code, § 2-65)

1-307. Issuance of process against ordinance violators. When an apparently valid complaint is made under oath to the recorder that some person has violated a provision of this code or other ordinance of the city, the recorder shall immediately issue a warrant for that person's arrest or shall subpoena the person to answer the complaint before the recorder at a specified time. (1973 Code, § 2-66)

1-308. Docket. The recorder shall keep a docket book record of all cases coming before him in his judicial capacity; he shall enter therein, among other things, the name of each defendant, the offense, the date of the offense and/or arrest, the date of the trial, the amount of the fine assessed and whether the fine was paid. (1973 Code, § 2-67)

1-309. Contempt of recorder's court. It shall be unlawful for any person to ignore or fail to comply with a summons or other process issued by the recorder or to otherwise be guilty of any misconduct before the recorder's court. (1973 Code, § 2-68)

CHAPTER 4

CITY ATTORNEY

SECTION

- 1-401. Office created; appointment; qualifications.
- 1-402. Term of office.
- 1-403. Specific duties; general compensation.
- 1-404. Additional duties; special compensation.
- 1-405. Additional counsel.

1-401. Office created; appointment; qualifications. There is hereby created the office of city attorney. The board of mayor and aldermen shall, at its first regular meeting following its election and induction into office, elect an attorney at law who is regularly engaged in and duly licensed to practice the profession of law in all the courts of the state, to the office of city attorney. However, a failure of the board of mayor and aldermen to elect a city attorney at its first regular meeting shall not deprive it of the power to make such election at any subsequent regular meeting. (1973 Code, § 2-74)

1-402. Term of office. The attorney shall hold his office for two (2) years from the date of his election by the board of mayor and aldermen and until his successor is elected and qualified. (1973 Code, § 2-75)

1-403. Specific duties; general compensation. (1) The city attorney shall have the following specific duties: (a) To regularly attend the meetings of the board of mayor and aldermen;

- (b) To advise the board of mayor and aldermen and the other officials of the city in connection with all legal matters and questions that shall arise pertaining to the affairs of the city;
- (c) To prepare all ordinances and resolutions of the board of mayor and aldermen for passage;
- (d) To supervise the keeping of the minutes of board of mayor and aldermen meetings;
- (e) To appear for and represent the city in all cases appealed from the recorder's court;
- (f) To render such miscellaneous legal services out of court as the affairs of the city may require.

(2) For those services enumerated in subsection (1), the city attorney shall receive and be paid a salary as established from time to time by the board of mayor and aldermen, payable in monthly installments. (1973 Code, § 2-76)

1-404. Additional duties; special compensation. For services rendered by the city attorney by direction of the board of mayor and aldermen,

but which are not included in the enumeration of his specific duties in this division, such as for services rendered in the prosecution or defense of lawsuits brought by or against the city or its officials in their official capacity in any of the state or federal courts and not involving cases before or appeals from the recorder's court; for services rendered in the collection of delinquent taxes, street assessments and other moneys due the city and requiring his services for their collection; for services rendered in connection with bond issues and city improvements not of a routine nature; and for other services of an unusual character, the city attorney shall be paid such reasonable additional compensation as is commensurate with the nature of the service rendered. The additional compensation may be fixed by independent contract when the occasion for such service shall arise, by agreement after the service shall have been rendered or by the court in which the service is rendered. (1973 Code, § 2-77)

1-405. Additional counsel. Nothing in this division shall be construed to deprive the mayor of the power and authority that he now has under the charter to employ special or additional counsel or the authority of the city to act in conjunction with or independently of the regular city attorney whenever, in the judgment of the mayor, it shall be for the interests of the city to do so, either for the purpose of bringing and prosecuting suits authorized by law or a resolution of the board of mayor and aldermen or for the purpose of defending suits brought against the city. (1973 Code, § 2-78)

CHAPTER 5

CODE OF ETHICS¹

SECTION

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

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

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

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

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

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

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

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

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

1-510. Ethics complaints.

1-511. Violations.

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #2006-7, Sept. 2006)

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

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #2006-7, Sept. 2006)

1-503. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (Ord. #2006-7, Sept. 2006)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

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

or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #2006-7, Sept. 2006)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #2006-7, Sept. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #2006-7, Sept. 2006)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #2006-7, Sept. 2006)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #2006-7, Sept. 2006)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the

performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #2006-7, Sept. 2006)

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

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #2006-7, Sept. 2006)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #2006-7, Sept. 2006)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER****1. RECREATION ADVISORY BOARD.****CHAPTER 1****RECREATION ADVISORY BOARD****SECTION**

2-101. Created.

2-102. Members; compensation and terms.

2-103. Vacancies.

2-104. Powers.

2-101. Created. The Newport Recreation Advisory Board is created to advise the board of mayor and aldermen on the recreation needs of the community. (Ord. #92-5, May 1992)

2-102. Members; compensation and terms. (1) This board will consist of five (5) members.

(2) The members of this board shall serve without pay.

(3) The terms of the members are as follows:

Member #1- 1 year term

Member #2 - 1 year term

Member #3 - 2 year term

Member #4 - 2 year term

Member #5 - 3 year term (Ord. #92-5, May 1992)

2-103. Vacancies. Vacancies that occur due to resignation or other means other than by expiration of term shall be filled only for the unexpired term, and such appointment shall be filled by the board of mayor and aldermen. (Ord. #92-5, May 1992)

2-104. Powers. This board will only serve in an advisory capacity. It shall not and will not be responsible for the supervision of staff, the hiring or dismissal of staff, the expenditure of public funds or the creation or enforcement of the rules and regulations governing parks and recreation facilities or programs. Although, this board may advise the Board of Mayor and Aldermen of the City of Newport, Tennessee on any of these matters and may act on behalf of the board of mayor and aldermen, on a case by case basis, if so authorized by the board of mayor and aldermen. (Ord. #92-5, May 1992)

TITLE 3

[RESERVED FOR FUTURE USE]

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY.
2. TRAVEL POLICY.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1**SOCIAL SECURITY****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Execution of agreements.
- 4-103. Deductions from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Personnel excluded from coverage.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the city to provide for employees and officials of the city, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of this policy, and for this purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1973 Code, § 2-99)

4-102. Execution of agreements. The mayor is authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age and survivors insurance, as agent or agency, to secure coverage of employees and officials as provided in this section. (1973 Code, § 2-100)

4-103. Deductions from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purposes of the section are 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 those laws or regulations. (1973 Code, § 2-101)

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 funds shall be paid over to the state or federal agency designated by those laws or regulations. (1973 Code, § 2-102)

4-105. Records and reports. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1973 Code, § 2-103)

4-106. Personnel excluded from coverage. There is hereby excluded from this division any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other provision of this code or other city ordinance creating any retirement system for any employee or official of the city. There is further excluded from this division any authority to make any agreement with respect to any position, any employee or official, compensation for which or whom is on a fee basis, or any position, any employee or official not authorized to be covered by applicable state or federal laws or regulations. (1973 Code, § 2-104)

CHAPTER 2

TRAVEL POLICY

SECTION

- 4-201. Travel requests.
- 4-202. Lodging.
- 4-203. Mileage.
- 4-204. Meals.
- 4-205. Parking.
- 4-206. Baggage and equipment handling fee.
- 4-207. Automobile rentals.
- 4-208. Air travel.
- 4-209. Phone call charges.
- 4-210. Conference or training registration.
- 4-211. City credit cards.
- 4-212. Special functions.
- 4-213. Disciplinary action.

4-201. Travel requests. An approved "authorization for travel" request form is required prior to travel. A "statement of travel expense claims" form must be filed within ten (10) days of the completion of the authorized travel. Expenses for travel required in the performance of duties and approved by the immediate supervisor and the city administrator, or the city administrator's designee, will be reimbursed in accordance with the rates hereinafter set forth. (Ord. #2006-3, April 2006)

4-202. Lodging. Lodging will be reimbursed at the actual expense of the room and room use tax, provided that the room is an economy, no frills room. Travelers should request a state rate if available at the hotel-motel. A tax exempt form should be given to the hotel-motel upon check-in and payment should be made either by a City of Newport check or by a City of Newport credit card in order to avoid paying state and local sales tax. (Motel occupancy tax is not exempt.) An original (not a copy) hotel-motel receipt is required for reimbursement. Employees are encouraged to stay at the location of the meeting for both individual convenience and safety. If a personal credit card is used, room sales tax will be charged by the hotel and will not be reimbursed to the employee. (Ord. #2006-3, April 2006)

4-203. Mileage. Employees are encouraged to reserve and use a city owned vehicle, if available, for all work related travel. Mileage will only be paid if a city vehicle is not available and the city administrator or designee approves use of a privately owned vehicle for travel. Mileage for personal vehicles will be reimbursed at the state rate in effect when the current year's budget is adopted.

If actual odometer mileage is not kept by the traveler, mileage will be estimated, using a computerized mapping program maintained in the finance department. Reimbursement rate for 2006-07 is forty-two cents (\$0.42) per mile. For longer trips, mileage will not be paid that exceeds the cost of air transportation and associated taxi services to the same location. (Ord. #2006-3, April 2006)

4-204. Meals. Due to IRS regulation, meal payment while in travel status must be handled differently in overnight travel payment verses same day travel meal reimbursement. Meals in same day travel status may be reimbursed, provided that the travel was official city business outside the City of Newport and a receipt was obtained for the meal. To obtain reimbursement, the employee or board member must complete a travel reimbursement request form and attach a copy of the meal receipt. The meal will be reimbursed up to the amount allowed in over-night travel and the reimbursement will be reported on the employee or board member's W-2 form as taxable income in accordance with IRS regulations.

If an employee or board member is in over-night travel status, a meal allowance will be paid, based on either the Level I or Level II state cost of living area of the travel destination. Out of state travel will be paid at the Level I rate. By IRS regulations, overnight travel meal allowances up to the amounts listed in the tables are not considered taxable income.

Level I locations are defined as:

Shelby County	Davidson County	Paris Landing State Park
Natchez Trace State Park	Pickwick State Park	Fall Creek Falls State Park
Montgomery Bell State Park	Gatlinburg	

Level II locations are all other locations in Tennessee. Reimbursement rates for 2006-07 are:

<u>Location</u>	<u>Breakfast</u>	<u>Lunch</u>	<u>Dinner</u>	<u>Incidentals</u>	<u>Full day</u>
Level I	\$8.00	\$10.00	\$17.00	\$3.00	\$38.00
Level II	\$6.00	\$8.00	\$14.00	\$3.00	\$31.00

Partial per diem will be paid based upon departure and return times as follows for over night trips:

<u>Meal</u>	<u>If depart prior to</u>	<u>If return after</u>
Breakfast	7:00 A.M.	8:00 A.M.
Lunch	11:00 A.M.	1:30 P.M.
Dinner	5:00 P.M.	6:30 P.M. (Ord. #2006-3A, Jan. 2007)

4-205. Parking. Parking will be reimbursed at the actual cost with receipt. Without receipt, maximum reimbursement for parking is eight dollars (\$8.00) per day. Valet parking will be at employee's expense. (Ord. #2006-3, April 2006)

4-206. Baggage and equipment handling fee. The maximum handling fee that will be reimbursed is six dollars (\$6.00) per hotel. (Ord. #2006-3, April 2006)

4-207. Automobile rentals. Automobile rentals are only authorized by the city administrator in unusual circumstances. If used in conjunction with air travel, it must be demonstrated that automobile rental is more economical to the city than using taxi or bus services and must be pre-approved by the city administrator. (Ord. #2006-3, April 2006)

4-208. Air travel. Air travel will be utilized when it is more economical to the city than providing a city vehicle. Air travel should be scheduled as far in advance as possible to get maximum use of early scheduling discounts. Any and all frequent flyer miles accumulated are the property of the city and will be applied to future official city travel. (Ord. #2006-3, April 2006)

4-209. Phone call charges. Only official business phone calls will be reimbursed by the city. Any and all personal phone calls are the responsibility of the individual making the call. (Ord. #2006-3, April 2006)

4-210. Conference or training registration. All registration fees, materials and supplies will be reimbursed provided they were listed on the travel request for pre-approved travel. Meals included in registration do not impact per diem rates. (Ord. #2006-3, April 2006)

4-211. City credit cards. If requested, city credit cards will be issued in accordance with the credit card policy for official travel. The credit card must be returned to finance and all travel documents filed for reimbursement within ten (10) days of completion of travel. (Ord. #2006-3, April 2006)

4-212. Special functions. The city administrator may approve payment of special functions, such as banquets and other work related social events, if they are requested in advance. Special function attendance does not affect per diem rate payment. (Ord. #2006-3, April 2006)

4-213. Disciplinary action. Violation of the travel rules or travel fraud can result in disciplinary action up to and including termination of employment for city employees, in addition to criminal prosecution. Violation of travel rules or travel fraud can result in removal from office and criminal prosecution of city officials. (Ord. #2006-3, April 2006)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH

SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.

4-301. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Newport. (Ord. #7-8-2003, July 2003)

4-302. Purpose. The City of Newport, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
 - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- (5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #7-8-2003, July 2003)

4-303. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Newport shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Newport whether part-time or full-time, seasonal or permanent. (Ord. #7-8-2003, July 2003)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of Newport are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (Ord. #7-8-2003, July 2003)

4-305. Variances from standards authorized. The City of Newport may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Newport shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Newport shall be deemed sufficient notice to employees. (Ord. #7-8-2003, July 2003)

4-306. Administration. For the purposes of this chapter, (Name of position) is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the City of Newport Occupational Safety and Health Program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #7-8-2003, July 2003)

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Newport. (Ord. #7-8-2003, July 2003)

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PURCHASING POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Business Tax Act adopted.

5-101. Business Tax Act adopted. The taxes provided for in chapter 387 of the Public Acts of 1971, known as the Business Tax Act, are hereby levied on the businesses, business activities, vocations or occupations carried on in the city, at the rates and in the manner prescribed by the act. (1973 Code, § 17-1)

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. (1) All real property taxes shall be assessed as of the tenth day of January of the year for which levied.

(2) Taxes levied by the city against real property shall become due and payable annually on the first day of October of the year for which levied. (1973 Code, § 17-2(a)and(b))

5-202. When delinquent--penalty and interest. All real property taxes levied by the city 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 general law of the state for delinquent state and county taxes. (1973 Code, § 17-2(c))

CHAPTER 3

PURCHASING POLICY

SECTION

- 5-301. Purchasing agent designated.
- 5-302. Purchasing agent--authority.
- 5-303. Purchases of \$5,000.00 or more submitted for bids.
- 5-304. Purchases of \$5,000.00 or more not submitted for bids.
- 5-305. Purchases of \$500.00 to \$4,999.99.
- 5-306. Purchases of \$100.00 to \$499.99.
- 5-307. Purchases of less than \$100.00.
- 5-308. Purchasing agent--responsibilities.
- 5-309. Relations of other departments with the purchasing department.
- 5-310. Purchasing department's responsibility.
- 5-311. Using department's responsibility.
- 5-312. Disposal of real property.
- 5-313. Purchase of used equipment.
- 5-314. Formal purchase contracts.
- 5-315. Surety requirements.
- 5-316. Quality assurance, inspection, and testing.
- 5-317. Surplus property.
- 5-318. Federal and state surplus property.
- 5-319. Conflict of interest.
- 5-320. Debt owed to city.
- 5-321. Violation of purchasing policies.

5-301. Purchasing agent designated. Interim city recorder/city administrator, chief administrative officer of the city, or city recorder shall act as purchasing agent for the city with power, except as set out in these procedures, to purchase materials, supplies, and equipment; secure leases and lease purchases; and dispose of and transfer surplus property for the proper conduct of the city's business. All contracts, leases, and lease-purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body. (Ord. #07-19-05-01, July 2005)

5-302. Purchasing agent--authority. The purchasing agent shall have the authority to make purchases, leases, and lease-purchases of less than five thousand dollars (\$5,000.00) singly or in the aggregate during any fiscal year and except as otherwise provided herein, shall require three (3) competitive bids or quotations, either verbal or written, whenever possible prior to each purchase. All competitive bids and quotations received shall be recorded and maintained in the office of the purchasing agent for a minimum of seven (7) years after contract expires. When requisitions are required, the competitive

bids and quotations received shall be listed on that document prior to the issuance of the purchase order. Awards shall be made to the lowest and best bid or "quote." (Ord. #07-19-05-01, July 2005)

5-303. Purchases of \$5,000.00 or more submitted for bids. A description of all projects and purchases, except as herein provided, that require the expenditure of city finds of five thousand dollars (\$5,000.00) or more shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of five thousand dollars (\$5,000.00) or more shall be made by the governing body to the lowest and best bid. (Ord. #07-19-05-01, July 2005)

5-304. Purchases of \$5,000.00 or more not submitted for bids. Purchases amounting to five thousand dollars (\$5,000.00) or more that do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances, except as otherwise provided herein, when such purchases are approved by the governing body:

- (1) Sole source of supply or proprietary products as determined after complete search by using department and the purchasing agent, with governing body approval;
 - (2) Emergency expenditures with subsequent approval of the governing body; Purchases from instrumentalities created by two (2) or more cooperating governments;
 - (3) Purchases from nonprofit corporations whose purpose or one of whose purpose is to provide goods or services specifically to;
 - (4) Purchases, leases, or lease-purchases of real property;
 - (5) Purchases, leases, or lease-purchases from any federal, state, or local governmental unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment;
 - (6) Purchases through other units of government as authorized by the Municipal Purchasing Law of 1983;
 - (7) Purchases directed through or in conjunction with the state Department of General Services;
 - (8) Purchases from Tennessee state industries;
 - (9) Professional service contracts as provided in Tennessee Code Annotated, § 12-4-106;
 - (10) Tort Liability insurance as provided in Tennessee Code Annotated, § 29-20-407;
 - (11) Purchases of fuels, fuel products, or perishable commodities;
 - (12) Purchases for resale of natural gas and propane gas.
- (Ord. #07-19-05-01, July 2005)

5-305. Purchases of \$500.00 to \$4,999.99. Purchases of five hundred dollars (\$500.00) to four thousand nine hundred and ninety nine dollars and ninety nine cents (\$4,999.99) require two (2) or more written quotations prior to purchase. Purchase orders will be issued. (Ord. #07-19-05-01, July 2005)

5-306. Purchases of \$100.00 to \$499.99. A request for payment or use of the city purchasing card or a purchase order may be used for purchases of one hundred dollars (\$100.00) to four hundred ninety nine dollars and ninety nine cents (\$499.99). (Ord. #07-19-05-01, July 2005)

5-307. Purchases of less than \$100.00. Low dollar purchases less than one hundred dollars (\$100.00) may be paid by using the city purchasing card or petty cash. (Ord. #07-19-05-01, July 2005)

5-308. Purchasing agent--responsibilities. The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined. (Ord. #07-19-05-01, July 2005)

5-309. Relations of other departments with the purchasing department. The purchasing department is a service agency for all other departments of the city. The purchasing function is a service, and for the mutual benefits gained to go toward the good of the city, all departments must work in harmony. This manual is a guide to help the departments know their buying responsibilities. (Ord. #07-19-05-01, July 2005)

5-310. Purchasing department's responsibility. (1) To aid and cooperate with all departments in meeting their needs for operating supplies, equipment and services;

(2) To process all requisitions with the least possible delay;

(3) To procure a product that will meet the department's requirements at the least cost to the city;

(4) To know the source and availability of needed products and services and maintain current vendor files;

(5) To obtain prices on comparable materials after receipt of departmental requisition;

(6) To select vendors, prepare purchase orders, and process and maintain order and requisition files;

(7) To search for new, improved sources of supplies and services;

(8) To assist in preparation of specifications and to maintain specification and historical performance files;

(9) To prepare and advertise requests for bids and maintain bid files;

(10) To keep items in store in sufficient quantities to meet normal requirements of the city for a reasonable length of time within space availability;

(11) To investigate and document complaints about merchandise and services for future reference;

(12) To transfer or dispose of surplus property. (Ord. #07-19-05-01, July 2005)

5-311. Using department's responsibility. (1) To allow ample lead time for the purchasing department to process requisitions and issue purchase orders, while permitting the supplier time to deliver the needed items;

(2) To prepare a complete and accurate description of materials to be purchased;

(3) To help the purchasing department by suggesting sources of supply;

(4) To plan purchases in order to avoid emergencies;

(5) To initiate preparation of specifications on items to be bid;

(6) To inspect merchandise upon receipt and complete a receiving report noting any discrepancies in types, numbers, conditions, or quality of goods;

(7) To advise the purchasing department of defective merchandise or dissatisfaction with vendor performance;

(8) To advise the purchasing department of surplus property. (Ord. #07-19-05-01, July 2005)

5-312. Disposal of real property. The City of Newport Purchasing Agent or his or her designee or a designee of the Newport Board of Mayor and Aldermen shall be authorized to dispose of and transfer all surplus real property and all improvements to the real property at public auction and as directed by the City of Newport Board of Mayor and Aldermen. Negotiated sales shall be approved by the affirmative vote of the board of mayor and alderman. (Ord. #07-19-05-01, July 2005)

5-313. Purchase of used equipment. Used equipment may be purchased without sealed bids if the following conditions exist:

(1) There is a considerable savings over new equipment and the department has a justifiable need.

(2) The source has been identified as reputable.

(3) Other sources have been researched for availability of item(s).

(4) The price is reasonable and within department budget limits.

(5) The equipment is purchased from another government agency. (Ord. #07-19-05-01, July 2005)

5-314. Formal purchase contracts. When an award is made by the City of Newport requiring a signed contract rather than a purchase order for construction or major projects, the original comes to the purchasing department for the mayor's signature. An original of the executed contract and associated documents will be retained in the bid file. The bid file is located in the purchasing department.

A purchase order properly endorsed by the city purchasing agent or his designee and one accepted by the vendor, also forms a binding contract. (Ord. #07-19-05-01, July 2005)

5-315. Surety requirements. (1) Bid bond. A bid bond issued by a surety company licensed to do business in the State of Tennessee may be required for a specified solicitation. The amount of the bid bond shall be stated as a set amount or as a percentage of the bid price. In no event may it exceed five percent (5%) of the total contract price. Bid bonds submitted by unsuccessful vendors will be returned upon award of a contract. Personal checks are not acceptable in the place of bid bonds; however, bank cashier's checks, a certified check or any other direct obligation drawn on a bank doing business in the United States is acceptable.

(2) Performance bond. A performance bond issued by a surety company licensed to do business in the State of Tennessee and acceptable to the City of Newport may be required for a specified solicitation. The amount of the performance bond shall be stated as a percentage of the contract price but may not exceed one hundred percent (100%) of the total contract price. Personal checks are not acceptable in the place of performance bonds; however, bank cashier's checks are acceptable. An irrevocable letter of credit from a state or national bank or a state or federal savings and loan association having its principal office in Tennessee may be accepted instead of a performance bond, subject to approval of the terms and conditions of said irrevocable letter of credit. If the successful bidder fails to furnish a performance bond and execute a contract within the time allowed, the bid deposit of the bidder shall be retained by the City of Newport as liquidated damages and not as a penalty. In addition, the city shall remain free to pursue any other remedies it may have.

(3) Payment bond. A payment bond issued by a surety company licensed to do business in the State of Tennessee may be required for a specified solicitation. The bond shall be not less than twenty-five percent (25%) or more than one hundred percent (100%) of the contract price. The bond is to ensure that the contractor will pay for all labor and materials used by the contractor or any immediate or remote subcontractor under the contractor. (Ord. #07-19-05-01, July 2005)

5-316. Quality assurance, inspection, and testing. The purchasing agent or a designee may take such steps as deemed desirable to ascertain or verify that supplies, services or construction items procured conform to

specifications. This authority may be delegated to the using department if the best interest of the city operation is served. (Ord. #07-19-05-01, July 2005)

5-317. Surplus property. The using departments shall identify in writing surplus, scrap, or obsolete property and report same to purchasing. Centralized purchasing shall have the authority to dispose of surplus, scrap, excess or obsolete property and regulate its disposal in a manner deemed to be in the city's best interest. Equipment acquired by a department through federal or state grant funding which no longer serves the needs for which originally acquired shall be disposed of in accordance with the property management regulations of the funding agency. (Ord. #07-19-05-01, July 2005)

5-318. Federal and state surplus property. Authority is granted to the city purchasing agent or his or her designee to monitor both federal and state surplus property programs and to allow using departments to purchase if:

- (1) The price is reasonable;
- (2) The item is budgeted;
- (3) Funds are available; and
- (4) Justification of need is provided.

An approved purchase order and request to purchase will be obtained from the purchasing department before making the purchase. (Ord. #07-19-05-01, July 2005)

5-319. Conflict of interest. No employee shall have any financial interest in the profits of any contract, service or other work performed for the city. He/she shall not personally profit directly or indirectly from any contract, purchase, sale or service between the city and any person or company. Any employee violating provisions of this rule shall be subject to appropriate disciplinary action including dismissal. (Ord. #07-19-05-01, July 2005)

5-320. Debt owed to city. The City of Newport will not do business with anyone who owes a debt to the city or is a defaulter on surety to the city. Prior to any bid being awarded the city purchasing agent or his/her designee will confirm with accounts receivable whether the bidder is in arrears to the city. (Ord. #07-19-05-01, July 2005)

5-321. Violation of purchasing policies. Department heads will be responsible for explaining any such violations in writing to the mayor, city purchasing agent and/or the board of mayor and aldermen. (Ord. #07-19-05-01, July 2005)

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

1. POLICE AND ARREST.
2. RESERVE POLICE FORCE.
3. WORKHOUSE.

CHAPTER 1**POLICE AND ARREST¹****SECTION**

- 6-101. Resisting or interfering with a police officers.
- 6-102. Impersonating police officer.
- 6-103. Police officers subject to chief's orders.
- 6-104. General duties of the chief of police.
- 6-105. Police officers to wear uniforms and be armed.
- 6-106. When police officers to make arrests.
- 6-107. Police officers may require assistance in making arrests.
- 6-108. Disposition of persons arrested.
- 6-109. Emergency personnel authorized to enter premises and notify police.

6-101. Resisting or interfering with a police officer. It shall be unlawful for any person to resist or in any way interfere with or hinder any police officer while he is in the discharge or apparent discharge of his duty. (1973 Code, § 14-1)

6-102. Impersonating police officer. It shall be unlawful for any person, other than an official police officer of the city, to wear or carry the uniform, apparel, badge, identification card or any 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. (1973 Code, § 14-2)

6-103. Police officers subject to chief's orders. All police officers of the city shall obey and comply with such orders and administrative rules and regulations as the chief of police may officially issue. (1973 Code, § 14-18)

¹Municipal code reference

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

6-104. General duties of the chief of police. The chief of police shall see that law and order is maintained within the city; he shall see to the patrol of the city at all times and shall have at least one (1) police officer in attendance at all announced sessions of the recorder's court to assist the recorder in maintaining order and decorum and to otherwise wait upon the court during its trial of cases. The chief of police shall also be responsible for seeing that all legal process issued by the recorder is duly executed. (1973 Code, § 14-19)

6-105. Police officers to wear uniforms and be armed. All police officers of the city shall wear such uniform and badge as the chief of police may prescribe and shall carry a service pistol and billy club at all times while on duty. (1973 Code, § 14-20)

6-106. When police officers to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

(1) Whenever they are in possession of a warrant for the arrest of the person;

(2) Whenever an alleged offense has been committed in the officer's presence by the person;

(3) Whenever an offense has been in fact committed and the officer has reasonable and probable cause to believe the person has committed it. (1973 Code, § 14-21)

6-107. Police officers may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a city police officer in making a lawful arrest when such person's assistance is reasonably requested and is necessary. (1973 Code, § 14-22)

6-108. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested for any offense other than one involving intoxication he shall be brought before the recorder for immediate trial or allowed to post bond in such sum as may be prescribed by the recorder. When the arrested person is intoxicated or when the recorder is not immediately available and the alleged offender is not able to post the required bond, he shall be confined in the city jail, which shall be maintained by the chief of police or in such other place as may be lawfully designated, until he can be tried. (1973 Code, § 14-23)

6-109. Emergency personnel authorized to enter premises and notify police. In a situation where there has been a 911 emergency call and where there is no response from within: Emergency personnel at the building shall be authorized to forcibly enter the building to investigate in order to determine that no one inside is in danger or having a medical problem. An

attempt shall then be made to leave the premises secure before leaving the premises and the emergency personnel must leave a message posted on the premises in a prominent place to contact the Police Department of the City of Newport. (Ord. #95-3, March 1995)

CHAPTER 2

RESERVE POLICE FORCE

SECTION

6-201. Establishment authorized; purpose.

6-202. Supervision.

6-203. Composition; appointment of members.

6-204. Conformity with rules and regulations.

6-205. Carrying arms; restrictions or exercise of police authority.

6-206. Restrictions on use of reserve police force.

6-201. Establishment authorized; purpose. The board of mayor and aldermen is authorized to recruit, train and organize an active reserve police force to supplement the regular police force of the city, which shall not be used for ordinary police duty, except by consent of the mayor. (1973 Code, § 14-28)

6-202. Supervision. The reserve police force shall be under the direct control of the chief of police or, in the absence of the chief of police, the mayor. (1973 Code, § 14-29)

6-203. Composition; appointment of members. The active reserve shall be limited to a membership of twenty-five (25) men, who shall be selected by the board of mayor and aldermen. The chief and sergeants of the reserve police force shall also be appointed by the board of mayor and aldermen. (1973 Code, § 14-30)

6-204. Conformity with rules and regulations. To remain a member of the reserve police force, each member shall agree to abide by the rules, regulations and training presented for the reserve police force. (1973 Code, § 14-31)

6-205. Carrying arms; restrictions or exercise of police authority. The members of the reserve police force shall not carry arms or have any police authority except when ordered to duty by the mayor or the chief of police, and then only in prescribed uniform. Any member carrying arms or attempting to perform any duties of a police officer, except when on active duty, shall be dismissed from the reserve police force and prosecuted according to all laws applicable to any other person. (1973 Code, § 14-32)

6-206. Restrictions on use of reserve police force. (1) The reserve police force shall not be used in conducting raids or investigations.

(2) No member of the reserve police force shall be used in such a way as to deprive a regularly paid police officer of his job, pay or extra pay, but shall be used only to supplement the regular police force. (1973 Code, § 14-33)

CHAPTER 3

WORKHOUSE

SECTION

6-301. Designated.

6-302. Inmates to be worked.

6-303. Compensation of inmates.

6-304. Inmates to be humanely treated.

6-301. Designated. The city jail is hereby designated as the city workhouse. (1973 Code, § 14-44)

6-302. Inmates to be worked. All persons committed to the city workhouse shall be required to perform such public work or labor as the chief of police may lawfully prescribe. (1973 Code, § 14-45)

6-303. Compensation of inmates. City workhouse inmates shall be allowed one dollar (\$1.00) per day as credit toward payment of the fines and costs assessed against them. (Code 1959, § 14-46)

6-304. Inmates to be humanely treated. All city workhouse inmates shall be furnished with adequate food and water, provided with clean quarters and sanitary facilities and shall otherwise be humanely treated. (1973 Code, § 14-47)

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER**

1. MISCELLANEOUS.
2. FIRE DISTRICT.
3. FIRE CODE.
4. VOLUNTEER FIRE DEPARTMENT.
5. FIRE SERVICE OUTSIDE CITY LIMITS.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 7-101. Gasoline trucks.
7-102. Open burning.

7-101. Gasoline trucks. No person shall operate or park any gasoline tank truck within any residential area of the city at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1973 Code, § 8-1)

7-102. Open burning. No person shall burn any material whatever without first obtaining the permission of the chief of the fire department therefor. (1973 Code, § 8-2)

¹Municipal code reference
Building, utility and housing codes: title 12.

CHAPTER 2

FIRE DISTRICT

SECTION

7-201. Fire limits described.

7-201. Fire limits described. The fire limits of the city shall be as follows:

Beginning on the south bank of the Big Pigeon River at a point which is the intersection of an extension of Prospect Avenue and said river bank; thence in a southerly direction with said extension and continuing along Prospect Avenue to a point two hundred (200) feet past the intersection of Prospect Avenue and Broadway; thence along a line parallel to and two hundred (200) feet to the south of Broadway in an easterly direction to the intersection of the line and College Street; thence along College Street and Broadway; thence across Broadway to the western line of the Stokley Van Camp Canning Company property; thence along said line in a northerly direction to the intersection of that line and Main Street and continuing along an extension of that line in a northerly direction, across River Road to the intersection of that line and the southern bank of the Big Pigeon River; thence in a westerly direction along the southern bank of the Big Pigeon River to the point of origin. (1973 Code, § 6-1)

CHAPTER 3

FIRE CODE¹

SECTION

- 7-301. Fire code adopted.
- 7-302. Enforcement.
- 7-303. Definition of "municipality."
- 7-304. Storage of flammable liquids and liquefied petroleum gas.
- 7-305. Modifications by the chief of the fire department.
- 7-306. Appeals from decisions of the chief of the fire department.
- 7-307. Violations.

7-301. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the NFPA Life Safety Code 101, 1994 edition, the NFPA Manuals 1994 edition, and the SBCCI Standard Fire Prevention Code, 1997 edition, are hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1973 Code, § 8-18, as amended by Ord. #99-08-A, Aug. 1999)

7-302. Enforcement. The fire prevention code adopted by reference shall be enforced by the chief of the fire department. (1973 Code, § 8-19)

7-303. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall mean the City of Newport, Tennessee. (1973 Code, § 8-20)

7-304. Storage of flammable liquids, and liquefied petroleum gas.
(1) The limits referred to in § 74a of the fire prevention code adopted in this chapter, in which storage of flammable liquids in outside above ground tanks is prohibited and the limits referred to in section 114 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in the § 7-201. (1973 Code, § 8-21)

¹Municipal code reference

Building, utility and housing codes: title 12.

7-305. Modifications by the chief of the fire department. The chief of the fire department shall have the power to modify any of the provisions of the fire prevention code adopted in this chapter upon application in writing by the owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the manner of carrying out the strict letter of the fire prevention code, if the spirit of the fire prevention code shall be observed, public safety secured and substantial justice done. The particulars of the modifications, when granted or allowed and the decision of the chief of the fire department thereon, shall be entered upon the records of the fire department and a signed copy shall be furnished the applicant. (1973 Code, § 8-22)

7-306. Appeals from decisions of the chief of the fire department. When any person feels that he has been wrongfully aggrieved by a decision of the chief of the fire department in interpreting and applying the fire prevention code adopted in this chapter or granting or refusing modifications thereof, he may within thirty (30) days appeal the decision to the board of mayor and aldermen. The appeal shall be in writing. (1973 Code, § 8-23)

7-307. Violations. Any person who shall violate any of the provisions of the fire prevention code adopted in this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken, or who shall, fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed therefor, shall severally for each and every such violation and noncompliance respectively, be subject to the application of the penalty prescribed by the penalty provisions of this code. (1973 Code, § 8-24)

CHAPTER 4

VOLUNTEER FIRE DEPARTMENT

SECTION

7-401. Established; composition.

7-402. Rules and regulations.

7-403. General powers and duties of the chief.

7-401. Established; composition. There is hereby established a volunteer fire department, supported and equipped by the city and composed of a chief and a driver appointed by the board of mayor and aldermen and such number of subordinate officers and firemen as the chief of the fire department may initially appoint and the membership shall thereafter elect. (1973 Code, § 8-35)

7-402. Rules and regulations. The volunteer fire department and the members thereof shall be subject to such administrative and disciplinary rules and regulations as the chief of the fire department shall prescribe and the board of mayor and aldermen shall approve. (1973 Code, § 8-36)

7-403. General powers and duties of the chief. (1) The chief of the fire department shall be responsible for and shall have general control and supervision of all members of the volunteer fire department; he shall see that all the fire prevention and fire protection activities of the city are efficiently carried out and that all applicable fire regulations are observed within the city.

(2) In addition to the provisions of subsection (1) and pursuant to the requirements of state law, the chief of the volunteer fire department 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 53 of chapter 24, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1973 Code, § 8-37)

CHAPTER 5**FIRE SERVICE OUTSIDE CITY LIMITS****SECTION**

7-501. Equipment not to be used outside of the city.

7-501. Equipment not to be used outside of the city. No equipment of the volunteer fire department shall be used for fighting any fire outside the city. (1973 Code, § 8-38)

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. SALE OF INTOXICATING LIQUOR FOR CONSUMPTION ON PREMISES.

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

8-101. Intoxicating liquors prohibited; exception.

8-102. Public intoxication.

8-101. Intoxicating liquors prohibited, exception. (1) As used in this section, the words "intoxicating liquor" shall be construed to include whiskey, wine, "homebrew," "moonshine" and all other intoxicating, spiritous, vinous or malt liquors and beers which contain more than five percent (5%) of alcohol by weight.

(2) It shall be unlawful for any person to manufacture or attempt to manufacture, receive, possess, store, transport, sell or attempt to sell or furnish any intoxicating liquor within the city.

(3) Nothing in subsection (2) shall make it unlawful:

(a) For any priest or minister of any religious denomination or sect to receive and possess wines for sacramental purposes or for any common or other carrier to ship or transport wine to any priest or minister for such purposes.

(b) For any common carrier to transport intoxicating liquor through the city when the carrier has a valid bill of lading for the intoxicating liquor which is consigned from and addressed to persons located outside the city in areas where the possession of intoxicating liquor has been legalized. (Ord. #2007-19, May 2007)

8-102. Public intoxication. It shall be unlawful for any person to be intoxicated in a public place. (Ord. #2007-19, May 2007)

¹State law reference

Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

- 8-201. Possession and sale lawful, subject to state law and this chapter.
- 8-202. Consumption or possession in public places.
- 8-203. Privilege license required.
- 8-204. Hours of sale.
- 8-205. Wholesale beer tax.
- 8-206. Beer board--created; composition; appointment of members.
- 8-207. Beer board--qualifications of members.
- 8-208. Beer board--terms of members.
- 8-209. Beer board--filling vacancies.
- 8-210. Beer board--organization; chairman.
- 8-211. Beer board--meetings.
- 8-212. Beer board--quorum.
- 8-213. Permit required for engaging in beer business.
- 8-214. Application.
- 8-215. Limitation on number of beer permits authorized to be issued.
- 8-216. Locations ineligible for permit.
- 8-217. Issuance; contents.
- 8-218. Duration of permit.
- 8-219. Scope of permit; bond.
- 8-220. Restrictions on signs.
- 8-221. Grounds for revocation; unlawful acts.
- 8-222. Suspension or revocation; grounds.

8-201. Possession and sale lawful, subject to state law and this chapter. The transportation, storage, sale, distribution, possession or manufacture of beer or ale of an alcoholic content of not more than five percent (5%) by weight within the city shall be lawful, but subject to the regulations prescribed by the state in Tennessee Code Annotated, title 57, chapter 2, and as prescribed in this chapter. (Ord. #2007-19, May 2007)

8-202. Consumption or possession in public places. It shall be unlawful for any person to drink or consume, or to have an open can or bottle of beer, on the public streets, alleys, avenues, highways, sidewalks, public parks,

¹State 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).

public school grounds or any other public place within the city unless the premises has a beer permit issued pursuant to this chapter. (Ord. #2007-19, May 2007)

8-203. Privilege license required. It shall be unlawful for any person to sell, store or manufacture beer or other beverage subject to this chapter without first obtaining a privilege license therefor as required by §5-101. (Ord. #2007-19, May 2007)

8-204. Hours of sale. It shall be unlawful for any person to sell or distribute any beer or other beverage subject to this chapter within the city between the hours of 3:00 A.M. and 8:00 A.M. on weekdays or 1:00 A.M. and noon on Sundays. (Ord. #2007-19, May 2007)

8-205. Wholesale beer tax. The recorder shall collect for the city the seventeen percent (17%) wholesale beer tax levied by the Wholesale Beer Tax Act as set out in Tennessee Code Annotated, chapter 3, title 57. (Ord. #2007-19, May 2007)

8-206. Beer board--created; composition; appointment of members. There is hereby created a board, to be known as the Beer Board of the City of Newport, consisting of three (3) members appointed by the board of mayor and aldermen. (Ord. #2007-19, May 2007)

8-207. Beer board--qualifications of members. No person shall be eligible for membership on the beer board unless he shall have been a resident and taxpayer of the city for at least one (1) year next preceding the date of his appointment, shall be at least twenty-one (21) years of age and shall be a resident citizen of the United States. (Ord. #2007-19, May 2007)

8-208. Beer board--terms of members. All members of the beer board shall serve and hold office for a term of one (1) year and until their successors are appointed and qualified. (Ord. #2007-19, May 2007)

8-209. Beer board--filling vacancies. When any vacancy occurs in the beer board by reason of the death, resignation or removal of a member or other cause, the vacancy shall be filled by an appointment made by the board of mayor and aldermen at its next succeeding regular meeting after the vacancy occurs, or as soon thereafter as is reasonably practicable. (Ord. #2007-19, May 2007)

8-210. Beer board--organization; chairman. Within ten (10) days after their appointment, the members of the beer board shall hold a meeting for the purpose of effecting the organization of the beer board. The beer board shall select one of its number to act as chairman. The chairman shall preside at all

meetings of the beer board and shall keep a detailed and accurate record of all action taken by the beer board. (Ord. #2007-19, May 2007)

8-211. Beer board--meetings. Meetings of the beer board shall be held at such times as designated by it and upon the call of its chairman, when necessary and proper to effectually carry out the provisions of this chapter. (Ord. #2007-19, May 2007)

8-212. Beer board--quorum. At all meetings of the beer board, a majority shall constitute a quorum and the beer board shall act only by vote of a majority of all its members. (Ord. #2007-19, May 2007)

8-213. 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 fifty dollars (\$250.00). Said fee shall be in the form of cash or check made payable to the City of Newport. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this.

(1) Privilege tax. There is hereby imposed in the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994 and each successive January 1, to the City of Newport, 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 payment date.

(2) 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 one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or, 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. (Ord. #2007-19, May 2007)

8-214. Application. (1) Each applicant for a permit required by this chapter shall submit a written application which shall establish the following:

(a) That if the applicant is a firm or corporation it is authorized to conduct business in the state.

(b) That the applicant has not been convicted of any violation of the laws of the state prohibiting the possession, sale, manufacture or transportation of intoxicating liquor or of any other crime involving moral turpitude within the past ten (10) years.

(c) That, in the contemplated place of business, proper sanitary facilities are available.

(d) That the contemplated place of business is so located as not to likely cause congestion of traffic or interference with schools or churches or interfere otherwise with the public health, safety and morals.

(e) That the applicant is of good character and repute.

(f) That the applicant is the owner or a stockholder, if the business is a firm or corporation, and whether a wholesale or retail sale or distribution is contemplated.

(2) Each application for a permit required by this chapter shall be filed with the chairman of the beer board, shall at all times be kept on file by the beer board and shall be open to inspection by the general public at all reasonable times.

(3) Any person making any false statement in his application for a permit required by this chapter shall forfeit his permit and shall not be eligible to receive another permit required by this chapter for a period of ten (10) years thereafter.

(4) Each application for a permit required by this chapter shall be carefully examined by the beer board and a complete record of its action thereon shall be kept in writing as a part of the regular proceedings of the beer board.

(5) A temporary permit may be issued by the finance director to allow the continued sale of alcoholic beverages at a location which presently has a valid permit. A temporary permit may be issued in order to allow a new application to be administratively processed and considered by the beverage board. The applicant for a temporary permit shall meet all requirements set forth in these ordinances and the temporary permit shall not be issued for more than sixty (60) days and regardless of stated ending date, the temporary permit ends the date the beer board rules on the applicant's permanent beer sales permit. The non-refundable application fee for a temporary beer permit is fifty dollars (\$50.00). (Ord. #2007-19, May 2007)

8-215. Limitation on number of beer permits authorized to be issued. (1) The beer board is expressly prohibited from issuing any permit required by this chapter when the number of existing, currently effective beer permits for on premises consumption in the city equals one (1) for each two hundred seventy-five (275) inhabitants of the city according to the latest federal census. Any beer permit issued in violation of this section shall be null and void.

(2) Beer permits issued for "off premises consumption" are not governed by the limitations of this section. (Ord. #2007-19, May 2007)

8-216. Locations ineligible for permit. (1) No beer permit for on premises consumption shall be issued to any person to sell or distribute any beer or other beverage regulated by this chapter at any location which is situated closer than three hundred and fifty (350) feet from premises upon which is located a church or other place of public worship, or upon which is located a school. Any permit issued pursuant to this chapter in violation of this section shall be null and void.

(2) Beer permits issued for "off premises consumption" are not governed by the limitations of this section. (Ord. #2007-19, May 2007)

8-217. Issuance; contents. Upon favorable action by the beer board on any application submitted to it for a permit required by this chapter, the permit shall be issued to the applicant. The permit shall contain the name of the applicant, the type of beer business authorized, the location of the premises where the business is authorized, the date of issuance, the signature of the chairman of the beer board and such reasonable conditions or restrictions as the beer board may direct. (Ord. #2007-19, May 2007)

8-218. Duration of permit. Any permit issued by the beer board pursuant to this chapter which is not utilized within a period of fifteen (15) days and then thereafter continuously so used, for the purpose for which it was issued shall lapse and become null and void; otherwise, it shall remain in full force and effect until its revocation by the beer board in the manner prescribed in this chapter. (Ord. #2007-19, May 2007)

8-219. Scope of permit; bond. A permit issued pursuant to this chapter shall entitle the permittee, upon his payment of all applicable privilege taxes and conditioned upon his continuing to pay the applicable privilege taxes and any fines assessed against him for violations of this chapter, to obtain from the recorder the privilege license required by this chapter. (Ord. #2007-19, May 2007)

8-220. Restrictions on signs. It shall be unlawful for any person holding a beer permit issued pursuant to this chapter to hang or maintain any sign advertising beer so that the sign extends perpendicularly over any street or sidewalk. No person holding a beer permit issued pursuant to this chapter shall maintain outside or window beer signs with a combined total area exceeding six (6) square feet. (Ord. #2007-19, May 2007)

8-221. Grounds for revocation; unlawful acts. It shall be unlawful and grounds for the revocation of a permit issued pursuant to this chapter for any permittee under this chapter to do, permit or suffer any of the following acts:

- (1) To make or permit to be made any sales or distribution of beer to persons under twenty-one (21) years of age;
- (2) To employ directly in the sale or distribution of beverages subject to this chapter or to permit persons under twenty-one (21) years of age to loiter on the premises;
- (3) To sell or distribute beverages subject to this chapter to intoxicated persons or under the influence of intoxicating beverages;
- (4) To sell or distribute beverages subject to this chapter to persons who are feeble-minded, insane or otherwise mentally incapacitated;
- (5) To fail to provide proper sanitary facilities;
- (6) To fail to provide unobstructed visibility, except for hotels and incorporated clubs and lodges, in the front windows;
- (7) To sell or distribute beverages subject to this division at any place where pool or billiards is played unless the sale, distribution and consumption of the beverages is made in the front of the room or place and where a solid partition or wall separates the place from the pool or billiard parlor;
- (8) To sell or distribute beverages subject to this chapter at any place where gambling or dancing is allowed or permitted;
- (9) To allow loud, unusual or obnoxious noises or disorderly conduct on his premises;
- (10) To employ any person who has been convicted of any violation of state statutes prohibiting the possession, sale, manufacture or transportation of intoxicating liquor or of any other crime involving moral turpitude within the past ten (10) years;
- (11) To tolerate within his premises any intoxicating liquor as defined in this chapter;
- (12) To otherwise violate any provision of this chapter or any reasonable condition or restriction written into his permit by the beer board. (Ord. #2007-19, May 2007)

8-222. Suspension or revocation; grounds. (1) Complaints brought for the purpose of suspending or revoking a permit issued pursuant to this chapter shall be made in writing and filed with the chairman of the beer board, who shall thereupon give or cause to be given written notice, accompanied by a copy of the written complaint, commanding the permittee under this chapter to appear, at a time and place designated in the notice, before the beer board and show cause why the permit issued pursuant to this chapter should not be suspended or revoked. The notice shall be served either by registered letter or by any police officer of the city at least ten (10) days prior to the date of the hearing when the permittee is cited to appear. On the specified date, the beer board shall publicly hear and determine the nature and merits of the complaint and, for this purpose, the chairman of the beer board is authorized to compel the attendance of witnesses by subpoena. After the hearing, the beer board may for proper cause suspend or revoke any permit issued pursuant to this chapter.

(2) Upon final hearing and determination by the beer board, either party may remove the cause by certiorari to the next term of the circuit court of the county. (Ord. #2007-19, May 2007)

CHAPTER 3

**SALE OF INTOXICATING LIQUOR FOR
CONSUMPTION ON PREMISES****SECTION**

- 8-301. Subject to certain statutes and restrictions.
- 8-302. Terms defined.
- 8-303. Intoxicating liquors for consumption on premises.
- 8-304. Regulations and prohibited practices.
- 8-305. Revocation of beer permit reported to ABC.
- 8-306. Prohibited sexual or pornographic conduct.
- 8-307. Privilege taxes.
- 8-308. Violations; penalty.
- 8-309. Chapter cumulative and supplemental.

8-301. Subject to certain statutes and restrictions. (1) The general provisions of the state law relating to intoxicating liquors contained in Tennessee Code Annotated, § 57-4-101, et seq., are hereby adopted as part of this chapter and by reference are fully incorporated in this chapter.

(2) Various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and Department of Revenue regarding the sale of intoxicating liquors for consumption on premises are hereby adopted as a part of this chapter and by reference are fully incorporated herein.

(3) It shall be unlawful to sell wine and other alcoholic beverages as defined in Tennessee Code Annotated, § 57-4-102 to be consumed on the premises of any hotel, commercial passenger boat company, restaurant, commercial airlines, passenger trains, premiere type tourist resort or club, convention center, historic performing arts center, permanently constructed facility within an urban park, any historic interpretive center, community theater, historic mansion house site, any restaurant in the terminal building of a commercial air carrier airport, any zoological institution, any museum, within the corporate limits of the City of Newport, Tennessee, except as provided by Tennessee Code Annotated, title 57, and by the rules and regulations promulgate thereunder, and as provided in this chapter. (Ord. #__, Dec. 2004)

8-302. Terms defined. The definitions set forth in Tennessee Code Annotated, § 57-4-102 are hereby incorporated herein as if copied verbatim in their entirety. (Ord. #__, Dec. 2004)

8-303. Intoxicating liquors for consumption on premises. (1) No business which sells intoxicating liquors for consumption on the premises shall be permitted in a location which is zoned other than C-2, C-3, C-4. In addition,

no such business shall be located close to a church (excluding churches in C-2 zone) , or school, or part-time than the minimum distance of separation required for the zone in which the building is located, measured by the length of a straight line drawn from the closest points of the church or school building or park boundary and the building proposed for the sale of intoxicating liquors for consumption on premises. Said minimum distances of separation shall be as follows:

<u>Zone</u>	<u>School</u>	<u>Church</u>	<u>Park</u>
C-1	200'	200'	200'
C-2	200'	200'	200'
C-3	200'	200'	200'

For the purpose of this section the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used for school purposes, and shall not include a vocational school or university. "Park" shall mean municipal property designated public parks and maintained as such by the municipality.

(2) A licensee holding a license for selling intoxicating liquors for consumption on the premises of a restaurant shall illustrate that he has adequate parking to provide one (1) parking space for an automobile for each two (2) seats in his place of business. (Ord. #__, Dec. 2004)

8-304. Regulations and prohibited practices. It shall be unlawful for any person, firm or corporation holding a license to sell intoxicating liquors for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, §§ 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety. (Ord. #__, Dec. 2004)

8-305. Revocation of beer permit reported to ABC. When any person, firm or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the alcoholic beverage commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the person, beer board, or city council is considering the suspension or revocation of such beer permit, consideration shall also be given to suspending the licensee's license for sale of intoxication liquors for consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said person, beer board, or city council shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-204. (Ord. #__, Dec. 2004)

8-306. Prohibited sexual or pornographic conduct. Tennessee Code Annotated, § 57-4-204 is incorporated herein as if copied verbatim in its entirety. The City of Newport Police Department is hereby authorized and directed to investigate and police the places of business holding a license to sell intoxicating liquors for consumption on premises and shall report violations to the alcoholic beverage commission as authorized, by Tennessee Code Annotated, § 57-4-204(e). (Ord. #__, Dec. 2004)

8-307. Privilege taxes. (1) Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2) the City of Newport hereby levies the following taxes for the privilege of selling intoxicating liquors for consumption on premises, which taxes shall be for municipal purposes to be paid annually to-wit:

- (a) Private club. \$300.00
- (b) Hotel and motel. \$1,000.00
- (c) Convention center. \$500.00
- (d) Premier type tourist resort. \$1,500.00
- (e) Restaurant, according to seating capacity, on licensed premises:
 - (i) 75 through 125 seats. \$600.00
 - (ii) 126 through 175 seats. \$750.00
 - (iii) 176 through 225 seats. \$800.00
 - (iv) 226 through 275 seats. \$900.00
 - (v) 276 seats and over. \$1,000.00

If a restaurant is licensed by the commission to sell wine only under Tennessee Code Annotated, § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified in this subdivision (b)(1).

- (a) Historic performing arts center. \$300.00
- (b) Urban park center. \$500.00
- (c) Commercial passenger boat company. \$750.00
- (d) Historic mansion house site. \$300.00
- (e) Historic interpretive center. \$300.00
- (f) Community theater. \$300.00
- (g) Zoological institution. \$300.00
- (h) Museum. \$300.00
- (i) Establishment in a terminal building of a commercial air traffic airport. \$1,000.00
- (j) Commercial airline travel club. \$500.00

The foregoing taxes shall be payable on the date the license is issued by the ABC and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time, a full year's taxes shall then be due and immediately payable.

(2) In addition to the privilege taxes levied in subsection (1), there further levied a tax equal to the rate of fifteen percent (15%) of the sales price of all alcoholic beverages sold for consumption on the premises the tax to be

computed on the gross sales of alcoholic beverages for consumption on the premises for the purpose of remitting the tax due the state, and to include each and every retail thereof.

(3) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit, or political organization selling alcoholic beverages at retail pursuant to a special occasion license.

(4) When any licensee shall fail to pay the initial privilege tax or any annual taxes due each October 1, there shall be imposed a penalty in the amount of five percent (5%) from each month of delinquency or part thereof not to exceed a total of twenty-five percent (25%), provided however each licensee shall have thirty (30) days from the due date before any penalty starts to accrue, interest on the taxes shall accrue at the rate of twelve percent (12%) per annum until paid.

(5) All penalties imposed by this section and taxes provided by this section may be collected as other taxes payable to the city.

(6) Should the licensee also hold a beer permit issued by the city, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit. (Ord. #__, Dec. 2004)

3-308. Violations; penalty. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission. (Ord. #__, Dec. 2004)

3-309. Chapter cumulative and supplemental. That the provisions of this chapter shall be cumulative and supplemental to any other ordinance or law now existing or hereafter enacted; and it is not the intent of the board of mayor and aldermen by enacting this chapter to repeal by implication any other ordinance or law not existing or hereafter enacted. (Ord. #__, Dec. 2004)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. SOLICITORS AND CANVASSERS.
4. TAXICABS.
5. POOL ROOMS.
6. AMUSEMENTS.
7. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1**MISCELLANEOUS****SECTION**

9-101. Doing business on Sunday.

9-101. Doing business on Sunday. It shall be unlawful for any person to open any store or place of business and sell any goods, wares or merchandise on Sunday; however, this section shall not be applied to movie theaters, drugstores, restaurants or service stations. (1973 Code, § 7-1)

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Storage and abandonment of vehicles: title 13.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.

SECTION

- 9-201. Defined.
- 9-202. Permit required.
- 9-203. Application for permit.
- 9-204. Contents of permit.
- 9-205. Exhibition of permit.
- 9-206. Restrictions on hours and location of business.
- 9-207. Revocation or suspension of permit.
- 9-208. Permit fee.
- 9-209. Permanent, complying building required.
- 9-210. Exception to regulations.

9-201. Defined. As used in this chapter, the term "peddler" shall mean any person, whether or not a resident of the city, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, house to house, or street to street, carrying, conveying, or transporting goods, wares, merchandise, fish, vegetables, fruits or other products or provisions and offering and exposing them for sale; or who, without traveling from place to place, sells or offers for sale such products from a wagon, automotive vehicle or other conveyance. A "peddler" shall also include any "hawker," "huckster," or "street vendor," but shall exclude any solicitor subject to the provisions of this chapter. (1973 Code, § 7-34)

9-202. Permit required. No person shall act as a peddler in the city unless he shall have first obtained a permit therefor from the recorder. (1973 Code, § 7-35)

9-203. Application for permit. Each applicant for a permit required by this chapter shall file an application therefor stating or containing the following: (1) The name of the applicant;
(2) A brief description of the nature of the goods to be sold;
(3) If employed, the name and address of the peddler's employer;
(4) If a vehicle is to be used, a description of it together with the license number or other means of identification;
(5) Evidence of the good moral character of the applicant. (1973 Code, § 7-36)

9-204. Contents of permit. Each permit issued under the provisions of this chapter shall show the name and address of the peddler, the kind of goods

to be sold, the date of issuance, the permit number and the identifying description of any vehicle used by the peddler. (1973 Code, § 7-37)

9-205. Exhibition of permit. Any peddler shall exhibit his permit issued pursuant to this chapter to any police officer or person solicited, upon demand. (1973 Code, § 7-38)

9-206. Restrictions on hours and location of business. No peddler shall engage in the business of peddling:

- (1) During the hours of darkness;
- (2) On Sunday;
- (3) Within two hundred (200) feet of a public market house;
- (4) Within two hundred (200) feet of a curb market. (1973 Code, § 7-39)

9-207. Revocation or suspension of permit. Any permit issued under the provisions of this chapter may be suspended or revoked by the board of mayor and aldermen for any of the following reasons:

- (1) Fraud, misrepresentation or a false statement contained in the application for the permit;
- (2) Fraud, misrepresentation or a false statement in the course of carrying on the business of peddling;
- (3) Conviction of any crime involving moral turpitude;
- (4) Conducting the business of peddling in such a manner as to create a public nuisance, cause a breach of peace or constitute a danger to the public health, safety or welfare;
- (5) Allowing another to use the permit. (1973 Code, § 7-40)

9-208. Permit fee. All peddlers, street vendors, etc. as herein defined shall pay the City of Newport, Tennessee a permit fee of fifty dollars (\$50.00) prior to conducting business within the city limits. The permit fee is due at the time of application and covers a period of fourteen (14) consecutive days after which business shall not be conducted until the permit is renewed or a new permit issued. (Ord. #86-11, Dec. 1986)

9-209. Permanent, complying building required. All peddlers, street vendors, etc., as herein defined shall only conduct business from a permanent structure. Said structure shall comply with all state and municipal codes and said structure must be either leased to or under the ownership of the applicant. (Ord. #86-11, Dec. 1986)

9-210. Exception to regulations. These regulations apply to all peddlers, street vendors, etc. within the city limits with the exception of those operating roadside stands for the sale of agricultural or forestry products and

shall not apply to special events (craft fair, street festival, holiday events) sponsored by charitable, religious, government or other non-profit organizations, not to exceed three (3) days. (Ord. #86-11, Dec. 1986)

CHAPTER 3

SOLICITORS AND CANVASSERS

SECTION

- 9-301. When permit required.
- 9-302. Application for permit.
- 9-303. Bond.
- 9-304. Exhibition of permit.
- 9-305. Transferability of permit.
- 9-306. Revocation of permit.
- 9-307. Charitable solicitations.

9-301. When permit required. It shall be unlawful for any person, whether a resident of the city or not, who goes from house to house, from place to place or from street to street, soliciting or taking or attempting to take orders for the sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery or for services to be performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the order or whether or not he is collecting advance payments on such orders, to induce or invite such orders, without having first obtained from the recorder a permit therefor. This section shall also apply to any person who, for himself or for another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery. (1973 Code, § 7-17)

9-302. Application for permit. Any person desiring a permit required by this chapter shall apply therefor in writing to the recorder. The application shall state or contain:

- (1) The name of applicant;
- (2) A complete permanent home and the local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the applicant's employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold or orders taken for the sale thereof; where the goods or products are located at the time said application is filed and the proposed method of delivery;
- (7) The last cities or towns not to exceed three (3), where the applicant carried on business immediately preceding the date of application and the addresses from which the business was conducted in those municipalities;

- (8) A personal description and complete identification of the applicant;
- (9) Such other credentials and evidence of the good moral character and identity of the applicant as may be reasonably required by the recorder. (1973 Code, § 7-18)

9-303. Bond. Each application for a permit required by this chapter shall be accompanied by a surety bond, or a personal bond executed by two (2) good and sufficient sureties who are bona fide residents of the city. The bond shall be payable to the city in the amount of five hundred dollars (\$500.00) conditioned that the applicant shall comply fully with all the provisions of this code and the state law regulating solicitors and canvassers. It shall guarantee to all residents of the city that all money paid as a down payment will be accounted for and applied according to the representations made, that the property purchased will be delivered according to such representations and shall be as represented by the solicitor and that the solicitor will refund the purchase price of any goods sold by him which are not as represented. Action on the bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given, but the surety may by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1973 Code, § 7-19)

9-304. Exhibition of permit. A permit issued pursuant to this chapter shall be carried at all times by the person to whom it was issued when soliciting or canvassing in the city and shall be exhibited upon the request of any police officer or person solicited. (1973 Code, § 7-20)

9-305. Transferability of permit. No permit issued pursuant to this chapter shall be used at any time by any person other than the one to whom it was issued. (1973 Code, § 7-21)

9-306. Revocation of permit. Any permit issued pursuant to this chapter may be revoked by the board of mayor and aldermen for violations by the holder thereof of any of the provisions of this code or of state or federal law or whenever the holder of the permit shall cease to possess the character and qualifications required by this chapter for the issuance of the permit. (1973 Code, § 7-22)

9-307. Charitable solicitations. It shall be unlawful for any person representing or claiming to represent, any church, school or any eleemosynary, charitable, religious, social service or public institution or organization of any kind to solicit money or subscriptions from the general public or to sell tickets or to canvass for advertising space on any program, booklet, pamphlet or other printed matter for the benefit or for the alleged benefit of any such institution or organization without first obtaining a permit therefor from the recorder, who

shall have authority to issue the permit if the purpose thereof is found to be worthy and bona fide. This section shall not, however, apply to solicitations made at the regular services or meetings of such organizations, but is intended to regulate solicitations from the general public. (1973 Code, § 7-23)

CHAPTER 4

TAXICABS

SECTION

- 9-401. Definitions.
- 9-402. Solicitation of business.
- 9-403. Parking.
- 9-404. Routes.
- 9-405. Unlawful use.
- 9-406. Transportation of more than one passenger.
- 9-407. Franchise required.
- 9-408. Persons ineligible for franchise.
- 9-409. Application.
- 9-410. Investigation; recommendation.
- 9-411. Hearing.
- 9-412. Financial responsibility.
- 9-413. Revocation or suspension.
- 9-414. State license and city permit required.
- 9-415. Persons eligible for permit.
- 9-416. Revocation or suspension of permit.
- 9-417. Prohibited conduct.
- 9-418. Equipment.
- 9-419. Cleanliness.
- 9-420. Inspections.

9-401. Definitions. As used in this chapter, the following terms shall have the meanings ascribed to them:

"Taxicab" shall mean all automotive vehicles used in and upon the public streets for carrying passengers for hire except motor buses or coaches operated by bus lines over designated routes in and through the city.

"Taxicab business" shall mean the use of one (1) or more taxicabs within the city for the purpose of carrying passengers for hire. (1973 Code, § 18-16)

9-402. Solicitation of business. It shall be unlawful for any taxicab driver to indiscriminately solicit passengers or cruise upon the streets of the city for the purpose of obtaining patronage for their cabs. (1973 Code, § 18-17)

9-403. Parking. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked for such use; however, taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere with or obstruct other traffic and if the passenger loading or discharging is promptly accomplished. (1973 Code, § 18-18)

9-404. Routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1973 Code, § 18-19)

9-405. Unlawful use. No taxicab shall be used for or in the commission of any illegal act, business or purpose. (1973 Code, § 18-20)

9-406. Transportation of more than one passenger. No person shall be admitted to a taxicab already occupied by a passenger without the consent of the latter. (1973 Code, § 18-21)

9-407. Franchise required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a franchise therefor from the city. (1973 Code, § 18-27)

9-408. Persons ineligible for franchise. No person shall be eligible to apply for a franchise required by this chapter if he has a bad character, has been convicted of a felony within the last ten (10) years or is not a bona fide resident of the city. (1973 Code, § 18-28)

9-409. Application. Applications for a franchise required by this chapter shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of the cabs and such other relevant information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. (1973 Code, § 18-29)

9-410. Investigation; recommendation. Within ten (10) days after the receipt of an application for a franchise required by this chapter, the chief of police shall make a thorough investigation of the applicant, determine if there is a public need for additional taxicab service, present the application to the board of mayor and aldermen and make a recommendation to either grant or refuse a franchise to the applicant. (1973 Code, § 18-30)

9-411. Hearing. The board of mayor and aldermen shall, upon the investigation and recommendations of the chief of police as to the application for a franchise required by this chapter, hold a public hearing. At that time, witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise, the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of an additional taxicab franchise. (1973 Code, § 18-31)

9-412. Financial responsibility. No franchise required by this chapter shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in the amount of ten thousand dollars (\$10,000.00) for bodily injury to any one (1) person, twenty thousand dollars (\$20,000.00) for injuries to more than one (1) person which are sustained in the same accident and five thousand dollars (\$5,000.00) for property damage resulting from any one (1) accident. The required insurance or bond shall inure to the benefit of the city and any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a taxicab owner, operator or driver. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after twenty (20) days written notice is given by the insurer or surety to the recorder. (1973 Code, § 18-32)

9-413. Revocation or suspension. The board of mayor and aldermen, after a public hearing, may revoke or suspend any franchise granted pursuant to this division for repeated violations of this chapter or the traffic laws of the city by the taxicab operator or his drivers. (1973 Code, § 18-33)

9-414. State license and city permit required. No person shall drive a taxicab unless he is in possession of a state chauffeur's license and a taxicab driver's permit issued by the chief of police. (1973 Code, § 18-39)

9-415. Persons eligible for permit. No person shall be issued a permit required by this chapter unless he complies with the following to the satisfaction of the chief of police:

- (1) He makes written application therefor to the chief of police;
- (2) He is eighteen (18) years old or over and holds a state chauffeur's license;
- (3) He is of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle;
- (4) He is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs;
- (5) He produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application;
- (6) He has not been convicted of a felony, drunk driving, or driving under the influence of an intoxicant or drug;
- (7) He is familiar with the local traffic laws. (1973 Code, § 18-40)

9-416. Revocation or suspension of permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any permit issued

pursuant to this, division for a violation of this article or for repeated violations of the traffic laws of the city. (1973 Code, § 18-41)

9-417. Prohibited conduct. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink, any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the city in any way. (1973 Code, § 18-42)

9-418. Equipment. It shall be unlawful for any taxicab to operate in the city unless it is equipped with proper four (4) wheel brakes, front and rear lights, tires, horn, muffler, windshield wiper and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical functions shall be kept in such condition of repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1973 Code, § 18-48)

9-419. Cleanliness. All taxicabs operated in the city shall at all times be kept in a reasonably clean and sanitary condition; they shall be thoroughly swept and dusted at least once each day. At least once each week, taxicabs shall be thoroughly washed and the interior cleaned with some suitable antiseptic solution. (1973 Code, § 18-49)

9-420. Inspections. All taxicabs shall be inspected at least semi-annually by the chief of police to insure that they comply with the requirements of this division with respect to mechanical condition and cleanliness. (1973 Code, § 18-50)

CHAPTER 5

POOL ROOMS

SECTION

9-501. Days and hours of operation.

9-502. Requirements as to premises.

9-503. Persons under eighteen years of age.

9-501. Days and hours of operation. It shall be unlawful for the operator of any pool room or any of his employees, to allow the pool room to be open for business at any time on Sundays or on weekdays and nights except between the hours of 7:00 A.M. and 10:00 P.M. (1973 Code, § 4-17)

9-502. Requirements as to premises. No pool room shall be allowed except in a building, place or room that has an entrance directly and immediately upon some street and which also has a front window affording at all times an unobstructed, plain view of the entire interior of the building, place or room from the street. (1973 Code § 4-18)

9-503. Persons under eighteen years of age. It shall be unlawful for the operator of any pool room or any of his employees, to allow persons under the age of eighteen (18) years to visit in, loiter in or around or to play pool or any other game therein. (1973 Code, § 4-19)

CHAPTER 6

AMUSEMENTS

SECTION

9-601. Restriction as to location of carnivals, tent shows and similar entertainments.

9-601. Restriction as to location of carnivals, tent shows and similar entertainments. No person shall give, conduct, operate or attempt to give, conduct or operate, any street fair, carnival, tent show or other exhibition or theatrical production of like character at any place within three hundred (300) yards of any church, residence or place of business. (1973 Code, § 4-1)

CHAPTER 7

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-701. Purpose and findings.
- 9-702. Definitions.
- 9-703. Classification.
- 9-704. License required.
- 9-705. Issuance of license.
- 9-706. Fees.
- 9-707. Inspection.
- 9-708. Expiration of license.
- 9-709. Suspension.
- 9-710. Revocation.
- 9-711. Transfer of license.
- 9-712. Location of sexually oriented businesses.
- 9-713. Exterior portions of oriented businesses.
- 9-714. Signage.
- 9-715. Massage or baths administered by persons of opposite sex.
- 9-716. Additional regulations for adult motels.
- 9-717. Regulations pertaining to exhibition of sexually explicit films videos or live entertainment in viewing rooms.
- 9-718. Additional regulations for escort agencies.
- 9-719. Additional regulations for nude model studios.
- 9-720. Additional regulations concerning public nudity.
- 9-721. Prohibition against children in a sexually oriented business.
- 9-722. Hours of operation.
- 9-723. Injunction.

9-701. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material. (Ord. #03-04-08, April 2003)

9-702. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore, adult novelty store or adult video store" means a commercial establishment which, as one of its principal purposes, offer for sale or rental for any form of consideration any one (1) or more of the following:

(a) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(a) Persons who appear in a state of nudity or semi-nude; or

(b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;"

and has sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(8) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(10) "Establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The additions of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business.

(11) "License" means a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

(12) "Nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical area" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(c) Where no more than one (1) nude or semi-nude model is on the premises at any one time.

(13) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(14) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(15) "Semi-nude" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(16) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

(17) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(18) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(19) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(b) For which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(c) The fact that a conviction is being appealed shall have no effect the disqualification of the applicant or a person residing with the applicant.

(20) "Specified sexual activities" means any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(c) Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

(21) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this chapter takes effect.

(22) "Transfer or ownership or control" of a sexually oriented business means and includes any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #03-04-08, April 2003)

9-703. Classification. Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores, adult novelty stores, or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers. (Ord. #03-04-08, April 2003)

9-704. License required. (1) It is unlawful:

(a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.

(b) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this chapter.

(c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(2) An application for a license must be made on a form provided by the city.

(3) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.

(4) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;

(ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:

(i) The sexually oriented business's fictitious name; and

(ii) Submit the required registration documents.

(c) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

(d) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and if so, the names and locations of such other licensed businesses.

(f) The single classification of license for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street address, and the telephone number(s), if any.

(h) The applicant's mailing address and residential address.

(i) A recent photograph of the applicant.

(j) The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number.

(k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the distances to all property lines, structures and uses in which the distance is regulated under § 9-712. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth § 9-717.

(6) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the city the following information:

(a) The applicant's name or any other name (including "stage" names) or aliases used by the individual.

(b) Age, date, and place of birth;

(c) Height, weight, hair and eye color;

(d) Present residence address and telephone number;

(e) Present business address and telephone number;

(f) Date, issuing state and number of driver's permit or other identification card information;

(g) Social security number; and

(h) Proof that the individual is at least eighteen (18) years of age.

(7) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order or denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each. (Ord. #03-04-08, April 2003)

9-705. Issuance of license. (1) Sexually oriented employee license.

(a) Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(i) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(ii) The applicant is under the age of eighteen (18) years;

(iii) The applicant has been convicted of a "specified criminal activity" as defined in this chapter;

(iv) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

(v) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in § 9-710.

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-706.

(2) Sexually oriented business license. (a) Within thirty (30) days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(i) An applicant is under eighteen (18) years of age.

(ii) An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

(iii) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(iv) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(v) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.

(vi) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.

(vii) The license fee required by this chapter has not been paid.

(viii) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(b) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to § 9-703. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(c) The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the city.

(d) A sexually oriented business license shall be issued for only one (1) classification as found in § 9-703.

(e) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-706. (Ord. #03-04-08, April 2003)

9-706. Fees. (1) Every application for a sexually oriented business license shall be accompanied by a two hundred fifty dollar (\$250.00) non-refundable application and investigation fee.

(2) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual non-refundable license fee of one hundred dollars (\$100.00) within thirty (30) days of license issuance or renewal.

(3) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual twenty-five dollars (\$25.00) non-refundable application, investigation, and license fee.

(4) All license applications and fees shall be submitted to the city recorder of the city. (Ord. #03-04-08, April 2003)

9-707. Inspection. (1) An applicant or license shall permit representatives of the police department, health department, fire department, zoning department, or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business. (Ord. #03-04-08, April 2003)

9-708. Expiration of license. (1) Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in § 9-704. Application for renewal shall be made at least thirty (30) days before the expiration date.

(2) When the city denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial becomes final. (Ord. #03-04-08, April 2003)

9-709. Suspension. The city shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this chapter.
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter. (Ord. #03-04-08, April 2003)

9-710. Revocation. (1) The city shall revoke a license if a cause of suspension in § 9-709 occurs and the license has been suspended within the preceding twelve (12) months.

(2) The city shall revoke a license if it determines that:

(a) A licensee gave false or misleading information in the material submitted during the application process.

(b) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.

(c) A licensee has knowingly allowed a prostitution on the premises.

(d) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

(e) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(f) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.

(3) When the city revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has

been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(4) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #03-04-08, April 2003)

9-711. Transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #03-04-08, April 2003)

9-712. Location of sexually oriented businesses. (1) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business in any zoning other than commercial as defined and described in Newport Zoning Ordinance.¹

(2) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within distance of certain establishments as follows:

(a) Within one thousand (1,000) feet of a church, synagogue mosque, temple or building which is used primarily for religious worship and related religious activities.

(b) Within one thousand (1,000) feet of a public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

(c) Within two hundred fifty (250) feet of a boundary of a residential district as defined in the Newport Zoning Ordinance.

(d) Within one thousand (1,000) feet of a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city, county, or park and recreation authorities;

¹The Newport Zoning Ordinance is included in this municipal code as Appendix A.

(e) Within five hundred (500) feet of a residential structure in any zoning district.

(f) Within five hundred (500) feet of an entertainment business which is oriented primarily towards children or family entertainment; or

(g) Within two hundred fifty (250) feet of any business or private club licensed by the city or state to sell packaged beer or alcohol for on premises consumption.

(3) It shall be unlawful if a person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control or a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

(4) It shall be unlawful if a person causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(5) For the purpose of subsection (2) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (2). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(6) For purposes of subsection (3) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(7) Any sexually oriented business lawfully operating on the effective date of this chapter, that is in violation of subsections (1) through (6) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

(8) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (2) of this section with one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked. (Ord. #03-04-08, April 2003)

9-713. Exterior portions of oriented businesses. (1) It shall be unlawful for an owner or operator of a sexually oriented business to allow

merchandise or activities of the establishment to be visible from a point outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(a) The establishment is a part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(5) A violation of any provision of this section shall constitute a misdemeanor. (Ord. #03-04-08, April 2003)

9-714. Signage. (1) Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

(a) Not contain any flashing lights;

(b) Be a flat plane; rectangular in shape;

(c) Not exceed seventy-five (75) square feet in area; and

(d) Not exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

(a) Be a flat plane, rectangular in shape;

- (b) Not exceed twenty (20) square feet in area;
 - (c) Not exceed five (5) feet in height and four (4) feet in width;
- and
- (d) Be affixed or attached to any wall or door of the enterprise.
- (6) The provisions of subsections (2)(a) , (3) and (4) shall also apply to secondary signs.
- (7) Violation of any provision of this section shall constitute a misdemeanor. (Ord. #03-04-08, April 2003)

9-715. Massages or baths administered by person of opposite sex. It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business, where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (Ord. #03-04-08, April 2003)

9-716. Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(2) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(3) For purposes of subsection (2) of this section the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. #03-04-08, April 2003)

9-717. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms. (1) A person who operates or causes to be operated a sexually oriented business other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (a) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area.

The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all area of the interior of the premises to an accuracy of plus or minus six (6) inches. The city may waive the foregoing diagram for renewal application if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.

(d) It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view area specified in subsection (e) of this section remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) No viewing room may be occupied by more than one (1) person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level.

(i) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

(2) A person having a duty under subsections (a) through (n) above commits a misdemeanor if he knowingly fails to fulfill that duty. (Ord. #03-04-08, April 2003)

9-718. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of eighteen (18) years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (Ord. #03-04-08, April 2003)

9-719. Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of eighteen (18) years.

(2) A person under the age of eighteen (18) years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

(3) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. #03-04-08, April 2003)

9-720. Additional regulations concerning public nudity. (1) It shall be a misdemeanor for a person who knowingly and intentionally, in a

sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

(2) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer. (Ord. #03-04-08, April 2003)

9-721. Prohibition against children in a sexually oriented business. A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business. (Ord. #03-04-08, April 2003)

9-722. Hours of operation. No sexually oriented business except for an adult motel, may remain open at any time between the hours of 12:00 A.M. and 8:00 A.M. on weekdays and Saturdays and noon (12:00 P.M.) on Sundays. (Ord. #03-04-08, April 2003)

9-723. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of five hundred dollars (\$500.00) or thirty (30) days imprisonment. Each day a sexually oriented business so operates is a separate offense or violation. (Ord. #03-04-08, April 2003)

TITLE 10**ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Hunting and killing of animals prohibited.
- 10-102. Permit required to keep livestock in proximity to residence or business.
- 10-103. Livestock or poultry running at large.
- 10-104. Animal care.
- 10-105. Inspections of kennels and pet stores.
- 10-106. Keeping of wild animals.
- 10-107. Keeping of wolf-hybrids.
- 10-108. Impoundment and disposition of animals other than dogs and cats.

10-101. Hunting and killing of animals prohibited. It shall be unlawful to kill or attempt to kill any bird or wildlife or other domestic animals, except domestic fowl, within the city. (Ord. #93-5, June 1993)

10-102. Permit required to keep livestock in proximity to residence or business. No person shall keep any cattle, swine, sheep, goats, horses, or mules within one thousand (1,000) feet of any residence or place of business in the city without a permit therefor from the health officer. The health officer shall issue a permit only when he shall find that the keeping of such an animal in the yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. Any person aggrieved by the health officer's decision in such cases may appeal the decision to the board of mayor and aldermen. (Ord. #93-5, June 1993)

1-103. Livestock or poultry running at large. It shall be unlawful for any person owning or in charge of any cattle, swine, sheep, goats, horses or mules or any offensive animals, or chickens, ducks, geese, turkeys or other domestic fowl to permit any such animal to run at large in any street, alley or unenclosed lot within the City of Newport. (Ord. #93-5, June 1993)

10-104. Animal care. (1) No owner(s) shall fail to provide their animals with sufficient good and wholesome food and water, proper shelter and

protection from the weather, veterinary care as is necessary to prevent disease and suffering, and with humane care and treatment.

(a) The building, structure, corral, pen, or other enclosures in which any animals are kept shall be, at all times, maintained in a clean and sanitary condition and free from excessive odor.

(b) When any animal is confined by the use of a chain, must be of adequate length and gauge to secure the animal without denying movement unnecessarily, and must be attached to the animal by an appropriate collar or harness, and must remain free from possible entanglement .

(i) Metal or chain, "choke" or "training" collars shall not be considered appropriate, with leather or cotton or nylon webbing being preferred.

(2) No person or organization shall give away any live animal as a prize for, or as an inducement, to enter a place of amusement; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(3) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such accident to the Newport Police Department, who will then notify the city animal shelter or animal control officer.

(4) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be consumed by any animal.

(5) Tennessee Code Annotated, §§ 39-14-201 through 39-14-210 are incorporated by reference as if set out in full. (Ord. #93-5, June 1993)

10-105. Inspections of kennels and pet stores. It shall be the duty of the animal control officer to make regular inspections of kennels and stores in which animals are sold. These inspections may be made at all reasonable times and places. (Ord. #93-5, June 1993)

10-106. Keeping of wild animals. No person shall keep or permit to be kept on his premises any wild animal, native or exotic, except with a state issued permit and strict adherence to state wildlife requirements and regulations. Tennessee Code Annotated, §§ 70-4-402 through 70-4-409. Wildlife Resources - Miscellaneous Regulations are incorporated by reference as if set out in full. (Ord. #93-5, June 1993)

10-107. Keeping of wolf-hybrids. Wolf-hybrids will be considered as "dangerous animals" and shall be securely confined as set down in § 10-220. (Ord. #93-5, June 1993)

10-108. Impoundment and disposition and animals other than dogs and cats. (1) Except for dogs and cats, any animal found running at large in violation of this chapter may be taken up by the animal control officer and impounded. The impounding officer shall post notices in at least three (3) public places, briefly describing the animal, reporting its impoundment and giving the date and place that the animal is to be sold, if not claimed by its owner within five (5) days. Any impounded animal may be claimed by its owner upon payment of the accrued fees. The owner shall also be liable for fines and costs as the recorder may assess for the violations of this chapter, as well as any damages. In the event any animal is not claimed within the prescribed time, it may be sold at public auction at the time and place as advertised to the highest bidder for cash. In the absence of a bidder or purchaser at such a sale, the animal may be humanely destroyed or otherwise disposed of for the benefit of the city.

(2) When any animal has been lawfully impounded, it shall not be taken or released from the place of impoundment except in accordance with the provision of subsection (1). (Ord. #93-5, June 1993)

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Definitions.
- 10-202. Running at large.
- 10-203. Bitches to be quarantined while in season/heat/estrus.
- 10-204. Importation or abandonment of animals.
- 10-205. Barking or howling.
- 10-206. Condition of pen and premises.
- 10-207. Number of animals.
- 10-208. Animals doing property damage.
- 10-209. Use of dog as a weapon.
- 10-210. Control of restrained dogs.
- 10-211. Enforcement.
- 10-212. Citations.
- 10-213. Investigation.
- 10-214. Interference with animal control officer.
- 10-215. Animal control officer authorized to request assistance from police department.
- 10-216. Rabies control.
- 10-217. Seizure of animal running at large--redemption by owner.
- 10-218. Confining or isolating animal upon suspicion of rabies.
- 10-219. Monitoring of quarantine.
- 10-220. Concealing animal kept in violation of this chapter a misdemeanor.
- 10-221. Dangerous and vicious dogs.
- 10-222. Impoundment.
- 10-223. Fraudulent redemption or adoption of animals.
- 10-224. Failure or refusal to redeem an impounded dog.
- 10-225. Euthanasia of animals.
- 10-226. Veterinary care of sick or injured animals.
- 10-227. Adoption disclaimer.
- 10-228. Removal and disposal of dog or cat feces from public or private property regulated.
- 10-229. Penalty.

10-201. Definitions. The following words and phrases shall, for the purpose of this chapter have the following meanings:

(1) "Animal control officer." The person or persons employed by the City of Newport and designed by the city as an enforcement officer or officers and having authority to carry out all provisions of this chapter.

(2) "Animal shelter." Any premises designated by the City of Newport for the purpose of impounding and caring for animals found running at large in violation of this chapter.

(3) "Animals." Animals when used herein, shall include both dogs and cats as defined below.

(4) "At large." An animal shall be "at large" when not confined to the premises of the owner or under restraint when away from the premises of the owner.

(5) "Confinement" or "confined." An animal shall be confined or under confinement to the premises of the owner when restricted within an adequate fence or enclosure or within a house, garage or other building or structure or under restraint sufficient to prevent the dog from escaping or leaving the premises.

(6) "Dogs." When used herein, shall include animals of all ages, both male and female, which are members of the canine family physically and geographically subject to this chapter.

(7) "Humane treatment." Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, and wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size and breed.

(8) "Owner." Any person having a right of property in or custody of an animal or who feeds/keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person over which that person has substantial control.

(9) "Person." Any individual, corporation, partnership, association, organization or institution commonly recognized by law as a unit.

(10) "Quarantine." A condition of total confinement within a structure, cage or pen which prevents any potential contact with any other animal and with any human being except as is necessary for those responsible for the quarantined animal's custodial or medical care.

(11) "Restraint." An animal is under restraint if it is controlled by a leash, tether, or chain, or within the passenger compartment of a motor vehicle being driven or parked on a street or confined on the property of its owner.

(12) "Veterinary hospital or clinic." A hospital or clinic operated by a licensed veterinarian. (Ord. #93-5, June 1993)

10-202. Running at large. The owner of any animal found to be at large shall be guilty of allowing the animal to run at large. (Ord. #93-5, June 1993)

10-203. Bitches to be quarantined while in season/heat/estrus. Every owner of a bitch is required to contain same for the twenty-four (24) days of her reproductive cycle when she is fertile (capable of reproduction).

Any female dog found in violation of this section and impounded will not be released from the animal shelter until said animal has been spayed, at the expense of the owner, and all other fees, fines, and/or penalties have been paid. (Ord. #93-5, June 1993)

10-204. Importation or abandonment of animals. (1) It is unlawful for any person to bring into the city any stray or unwanted animal and release same within the city limits to run at large upon the streets, sidewalks, alleys and other public or private property.

(2) It is unlawful for any person to bring into the city any stray or unwanted animal and misrepresent the origin of the animal or themselves for the purpose of obtaining the services of the city's animal control facilities or personnel without charge/fee.

(3) It is unlawful for any resident of the city to abandon, cast out, leave or discard any animal which they own or possess because same has become unwanted, ill or aged or misrepresent their intent and purpose in order to obtain the services of the city animal control facilities and personnel and/or avoid financial responsibility associated with the humane treatment of an animal. (Ord. #93-5, June 1993)

10-205. Barking or howling. It shall be unlawful for any person, firm or corporation to keep on his premises or under his control and within the City of Newport, any animal which, by loud and frequent barking or howling, shall unreasonably disturb the peace and quiet for any person who may reside within reasonable proximity of the place where such animal is located. (Ord. #93-5, June 1993)

10-206. Condition of pen and premises. (1) It shall be unlawful for any person, firm or corporation, keeping or harboring any animal, to fail to keep the premises, where such animals are kept, free from offensive odors to the extent that such odors are disturbing to persons residing within reasonable proximity of the said premises.

(2) It shall be unlawful to allow the premises where animals are kept to become unclean and a threat to the public health by failing to diligently and systematically remove all animal waste from the premises.

(3) Said pen and premises shall be constructed and equipped so as to provide humane treatment of the animals confined therein. (Ord. #93-5, June 1993)

10-207. Number of animals. (1) It will be unlawful for more than four (4) animals over the age of three (3) months to be confined, kept or harbored upon the premises of any person within the city limits, except that this provision shall not apply to proprietors of animal hospitals and clinics or veterinarians

and grooming facilities (or licensed kennels and catteries), when such animals are kept upon the premises in the course of their normal business.

(2) The keeping on the premises of the owner of more than four (4) animals shall be prima facie evidence of violation of this section, and the burden of proof shall be on the owner to show the ages of such animals. (Ord. #93-5, June 1993)

10-208. Animals doing property damage. (1) The owners of all animals at large in the City of Newport, which animals, while at large do damage to the property of any person, shall be guilty of a misdemeanor.

(2) Upon conviction, the owner shall be fined not less than \$ ____, plus court costs nor more than \$ ____, plus court costs plus the cost of all damages done by the animals. Damages shall be paid to the person so damaged within thirty (30) days after the damage done.

(3) Said offense to be separate from and in addition to the section pertaining to "running at large." (Ord. #93-5, June 1993)

10-209. Use of dog as a weapon. (1) It shall be unlawful for any person who owns, possesses or has direct or indirect control of a dog within the city limits of Newport to permit, encourage, incite, command or direct said animal to challenge, threaten, charge, assault, or do injury to any person upon the streets and thoroughfares or public lands of Newport or upon the premises of said owner, possessor or controller except as would otherwise be permissible under Tennessee statutes as they relate to the justifiable use of deadly physical force.

(2) The penalty for using a dog as a weapon shall be no less than __ nor more than ____, if no physical contact between animal and "victim" occurs, otherwise the penalty shall be a fine of no less than __ nor more than __ and the city judge (municipal judge) may order the confiscation and destruction of the animal. (Ord. #93-5, June 1993)

10-210. Control of restrained dogs. (1) It shall be unlawful for any person upon the streets, sidewalks, or public places while having a dog under restraint by leash, tether, or chain in their possession to encourage, command, allow, or permit the animal to challenge, confront, attack or fight any other animal whether said challenge or combat is by mutual agreement with another owner of a restrained animal or with a stray animal.

(2) It shall be the duty of any person upon the streets, sidewalks or public places while having a dog under restraint to prevent such conduct by the animal and if it becomes involved in any altercation with another animal inadvertently, to take whatever corrective action is necessary to withdraw their animal from the affray immediately. If the other animal involved is a stray, animal control should be called immediately to impound said stray.

(3) Failure to control a restrained animal shall carry a penalty of no less than \$___ nor more than \$___ for the first offense. A second offense shall carry a penalty of double the previous fine and confiscation of the animal upon order of the municipal (city) judge. (Ord. #93-5, June 1993)

10-211. Enforcement. The provisions of this chapter shall be enforced by the animal control officer(s) of the City of Newport. (Ord. #93-5, June 1993)

10-212. Citations. The animal control officer(s) is hereby authorized to issue a citation for court appearance as defined by the Tennessee Rules of Criminal Procedure, to the owner or possessor of any animal violating any provisions of this chapter. The citation shall be in the form as approved by the Newport Municipal (city) Court. Said citation shall designate the offense committed and shall require the person so charged to appear before the Newport City Court to answer the charges contained or present said citation at the city records office prior to said court date for disposition. Should an arrest be required for failure to appear in response to said citation, the animal control officer shall seek the assistance of the Newport Police Department to effect such physical arrests. (Ord. #93-5, June 1993)

10-213. Investigation. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal control officer is empowered to enter upon any premises upon which an animal is kept or harbored to request the exhibition of such animal and the rabies certificate for the animal by the owner or possessor. It is further provided the animal control officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal, when in the officer's opinion it requires humane treatment and to keep and care for same until such time as the court makes a disposition on any charges or the animal. (Ord. #93-5, June 1993)

10-214. Interference with animal control officer. No person shall interfere with, hinder or molest an animal control officer in the performance of any duty of such officer, or seek to release or take any animal in the custody of the animal control officer. (Ord. #93-5, June 1993)

10-215. Animal control officer authorized to request assistance from police department. The animal control officer is empowered to call upon the personnel and facilities of the Newport Police Department to assist in the performance or furtherance of the assigned duties as may be necessary for the officer's or public's physical protection, investigations, or physical arrests. (Ord. #93-5, June 1993)

10-216. Rabies control. (1) Vaccination schedule. It shall be the responsibility/duty of every dog and cat owner to have his/her dog vaccinated against rabies at the age of three (3) months, cats at the age of six (6) months, and annually thereafter. All vaccinations must be administered by a veterinarian licensed by the Tennessee State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of Tennessee.

(2) Penalty. Any person failing to have their animal (dog or cat) vaccinated as required under this section shall upon conviction be guilty of a misdemeanor and be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

(3) Tag evidencing vaccination to be attached to collar and worn at all times. Every dog owner shall attach a metal tag, evidence of rabies vaccination, to a collar which shall be worn at all times by the vaccinated.

(4) Vaccination certificate. The vaccination certificate shall be kept by the person who owns, keeps, or harbors the said animal (dog or cat) at all times subject to the properly empowered officer(s).

(5) Harboring or owning unvaccinated animal misdemeanor. It is hereby declared a misdemeanor for any person to own, keep, or harbor any animal which has not been vaccinated pursuant to the requirements of this section. (Ord. #93-5, June 1993)

10-217. Seizure of animal running at large--redemption by owner. Any animal found running at large may be seized by an officer (animal control, health or any peace officer) and placed in the animal sheltering facility. If said animal is wearing a rabies tag, the owner will be notified by telephone, or a post card addressed to his last known mailing address to appear within five (5) days and redeem the animal by paying an owner claim fee of ten dollars (\$10.00), the daily boarding fee of three dollars and fifty cents (\$3.50) per day, as well as the city pick-up fee of seven dollars and fifty cents (\$7.50), or the same will be destroyed. If said animal (dog) is not wearing a tag, the same shall be destroyed unless legally claimed by the owner within three (3) days. No animal shall be released in any event from a shelter unless and until it has been vaccinated and the rabies tag placed on its collar. (Ord. #93-5, June 1993)

10-218. Confining or isolating animal upon suspicion of rabies.

(1) If any animal has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the Cocke County Health Department, City of Newport Health Officer, any peace officer, animal control officer or municipal judge shall cause such animal to be quarantined, confined or isolated at a veterinary hospital, the animal shelter or other facility as approved by the Cocke County Health Department for such time as the health department deems it necessary to protect the safety of the people and/or personal property.

(2) When an animal has bitten a person, it shall not be killed while under confinement/quarantine, except when the animal is too unmanageable as to be a danger to the public or staff in the sheltering facility.

(3) If such animal should die or be destroyed, within the period, the Cocke County Health Department shall send the head to the state laboratory for examination.

(4) The animal shelter shall be authorized to impose a reasonable charge for the housing and maintenance of said animals. (Ord. #93-5, June 1993)

10-219. Monitoring of quarantine. In those instances where the animal is quarantined on the premises of the owner, the animal control officer shall have the authority to monitor the conditions of the quarantine and the health of the dog at irregular intervals.

If the owner is unable, or fails or refuses to properly quarantine the animal in such a manner as to protect others from contact with it, the animal control officer shall impound the animal and quarantine it at the city animal shelter at the owner's expense. (Ord. #93-5, June 1993)

10-220. Concealing animal kept in violation of this chapter a misdemeanor. Any person who shall hide, conceal or aid or assist in the hiding or concealing of any animal owned, kept or harbored in violation of any of the provisions of this chapter, shall be guilty of a misdemeanor. (Ord. #93-5, June 1993)

10-221. Dangerous and vicious dogs. (1) Dangerous and vicious dogs declared a hazard. Dogs within the City of Newport who by their nature, treatment, training or personality are unusually, overly, decidedly or deliberately aggressive toward persons or other animals are hereby declared to be a hazard to the public safety as "dangerous" or "vicious" dogs. The owners thereof shall be subject to additional restrictions and requirements for the keeping of such animals within the city and additional penalties if found in violation.

(a) Dangerous dogs. A dangerous dog shall be:

(i) Any dog which, according to the records of the Newport Police Department, has inflicted injury on a human being without provocation on public or private property; or

(ii) Any dog which, according to the records of the Newport Police Department, has killed a domestic animal without provocation while off of the owner's property; or

(iii) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or

(iv) Any dog not owned by governmental or law enforcement used primarily to guard public or private property; or

(v) Any dog not owned by governmental or law enforcement trained to attack a human being or another animal upon voice command or hand signal given by its owner or handler.

(b) Vicious dogs. A vicious dog shall be any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, to domestic animals.

(2) Dogs involved in unprovoked fatal or severe attacks on humans.

(a) Deadly force may be utilized by the animal control officer or the Newport Police Department, or assigned agent (a licensed veterinarian) to effect the capture of any dog responsible for an unprovoked fatal or severe attack upon a human being or to prevent such an attack upon themselves or another when they believe an attack to be imminent or unavoidable in the course of their duties.

(b) A dog responsible for an unprovoked fatal or severe attack on a human being shall, if captured alive and in the custody of the city, be humanely euthanized following an investigation to clarify the circumstances of the incident and a reading from the municipal court to that effect. The cost of the euthanization of said animal will be at the expense of the owner.

(3) Requirements for keeping a dangerous or vicious dog. The owner of any dog ruled to be dangerous or vicious shall be required to meet the following conditions in order to keep the dog inside the city limits of Newport:

(a) The owner shall, at his own expense, have a "dangerous" or "vicious" dog number as assigned by the City of Newport Animal Control Department, tattooed upon such dog by a licensed veterinarian or by a person trained or authorized by a locally licensed veterinarian. The animal control officer shall designate the particular anatomical location of said tattoo.

(b) The animal will wear a "dangerous" dog collar, easily recognizable to the public, police and animal control officers, at all times, to identify the animal as a dangerous dog.

(c) The owner shall notify the Newport Police Department and animal control as soon as possible, but no more than eight (8) hours afterwards, if a dangerous or vicious dog is loose, unconfined or at large or has been sold, died, or given away.

Notification shall be made immediately if the dog has attacked a human being or another animal. If the dog has been sold or given away, the owner shall provide to the animal control officer the name, address and telephone number of the new owner, who must comply with the requirements of this chapter. The animal control officer will also notify the new owner of the animal's complete history.

(d) While on the owner's property, a dangerous or vicious dog must be securely confined indoors or in a securely enclosed (four sides and top) and locked pen or structure, suitable to prevent the entry of children

and designed to prevent the animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet (5' x 10') and must secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet. The enclosure must also provide protection from the elements for the dog.

(e) The owner shall conspicuously display a sign(s) on the premises warning that there is a "dangerous" dog on the property. This sign(s) shall be visible and capable of being read from the public highway or thoroughfare.

(f) A dangerous or vicious dog may be off the owner's premises only if it is muzzled and restrained by a substantial chain or leash not exceeding six feet (6') in length attached to a sturdy collar or halter and under the direct control of a responsible adult. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(g) The owner of a dangerous or vicious dog shall present to the city recorder and animal control officer proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) covering each twelve (12) month period. This policy shall contain a provision requiring that the City of Newport be named an additional insured for the sole purpose that the city be notified by the insurance company of any cancellation, termination or expiration of the policy.

(4) Declaring a dog as dangerous or vicious--procedure. (a) The court may rule a particular dog as dangerous following an examination of all facts, information, and evidence offered by animal control, the dog's owner, and any witnesses at a hearing held for that purpose. A dog's "breed" alone is not sufficient evidence to declare it as dangerous or vicious.

(b) If the animal suspected to be dangerous or vicious has been involved in an attack upon a human being the animal control officer shall attempt to capture and impound the dog. If the dog is captured alive and impounded in the city animal shelter or a local veterinary hospital or clinic, the animal control officer shall notify the city judge of the incident and the condition of the victim. The city judge shall then set an appropriate date for a dangerous or vicious dog hearing and issue a summons to the owner to appear.

(c) If the animal in question is killed during the capture on the complaint is based upon reasonable suspicion that it meets the criteria set forth in the subsection on dangerous dogs and vicious dogs of this chapter, the animal control officer shall issue the owner a citation and assign a date consistent with the city court's regularly scheduled court calendar.

(5) Time limits to comply with dangerous and vicious dog requirements. (a) The owner of any dog ruled as dangerous or vicious by the court, unless the dog is destroyed (euthanized), shall immediately comply with the "requirements for keeping a dangerous or vicious dog."

(b) An impounded dog ruled as dangerous or vicious by the court will not be released until the following requirements are met:

(i) A certificate of inspection is issued by animal control or code's enforcement stating that the pen or structure for the animal's confinement is in compliance with the guidelines in this chapter under "requirements for keeping a dangerous or vicious dog."

(ii) A certificate of liability insurance is presented to the court, with a copy on file with animal control.

(iii) All impound fees, fines and penalties are paid in full.

(6) Penalties. (a) If the dog was involved in an unprovoked attack on a human being, the penalty shall be confiscation and destruction of the animal and a fine of no less than fifty dollars (\$50.00).

(b) If the dog is ruled dangerous for any other reason the fine shall be no less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) and the "requirements for keeping a dangerous or vicious dog" shall be imposed.

(c) If a dog previously ruled to be dangerous or vicious is found to be at large or improperly leashed and muzzled in a public place the fine shall be no less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for the first offense. The fine shall be doubled for each succeeding offense with confiscation and destruction of the animal in addition to any fine upon a third offense violation.

(7) Liability of parents. If the owner of a dangerous or vicious dog is a minor, the parents or guardian of that of that minor shall be responsible for compliance with the specifications of the section for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the dog.

(8) Optional action. If the owner of a dog that has been designated dangerous is unwilling or unable to comply with this section for keeping such an animal, then he or she should have the animal humanely euthanized at his or her expense by a licensed veterinarian or may request that the animal shelter director have the procedure performed following the payment to the city of a twenty-five to thirty dollars (\$25.00/\$30.00) euthanasia fee.

(9) Dogs involved in provoked attacks. (a) A dog that has inflicted injuries under circumstances which indicate that the animal was provoked shall be required to be kept by the owner as outlined for dangerous or vicious dogs with the exception of the tattooing.

(b) No dog will be declared dangerous or vicious if the threat, injury or damage was sustained by a person who, at the time, was

committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or has in the past, been observed or reported to have teased, tormented, abused, or assaulted to commit a crime.

(10) Issuance of the "requirements for keeping a dangerous or vicious dog." (a) A copy of the requirements for keeping a dangerous or vicious dog shall be issued to each person the city court rules owns a dangerous dog.

(b) The animal control officer shall be responsible for supplying the city recorder's office with a supply of these requirements for insurance to the appropriate owners.

(11) Adoption of dangerous or vicious dog. (a) Any dog that has been designated as dangerous or vicious under this section may not be offered to the public for adoption.

(b) This shall include dogs which the animal control officer has in impound of an unclaimed nature and of unknown origin which through conduct or demeanor leads the animal control officer to believe that the animal is dangerous or vicious. (Ord. #93-5, June 1993)

10-222. Impoundment. (1) Impoundment; redemption; citations.

(a) Any animal found to be at large within the City of Newport, shall be picked up by the animal control officer and impounded in the city animal shelter and there be confined in a humane manner for a period of not less than three (3) days/seventy-two (72) hours (as required by state law).

(b) Animals which are not claimed by their owner or an authorized agent, so identified in writing by the owner, after the expiration of three (3) days, may be adopted to another party under the provisions of this section. If after three (3) days the animals are not claimed as provided for above, they may be disposed of at the discretion of the Director of the Newport Animal Shelter in a humane method.

(c) When animals are found running at large, and their ownership is known to animal control, such animals need not be impounded, but the animal control officer may, at his discretion, cite the owner of such animals to appear in court to answer to charges of violation of this section.

(2) Compliance with vaccination requirement; redemption by owner. The owner shall be entitled to resume possession of any impounded animal belonging to him on compliance with the vaccination requirements of the city, and upon payment of any and all fines as are hereafter set forth.

(3) Impoundment fees. (a) Any dog impounded hereunder may be redeemed, as provided above, upon payment by the owner to the Newport Animal Shelter the sum of seven dollars and fifty cents (\$7.50), pick-up fee, ten dollars (\$10.00), owner claim fee and the additional sum of three dollars and fifty cents (\$3.50) per day for each day such animal has been

maintained by the city animal shelter. Impound fees set forth herein shall be collected for the City of Newport and maintained for the maintenance and expenses of the Newport Animal Shelter. In addition, if the animals have not been vaccinated prior to being released from the shelter. The burden of proof as to the vaccination of an impounded animal shall be upon the party attempting to redeem the animal from the shelter.

(b) Any person redeeming unvaccinated animals shall after payment of the fee assessed herein and prior to taking possession of the animal, cause said animal to be vaccinated in accordance with the regulation of the City of Newport, and the cost for expense of such vaccination fee shall be paid by the party redeeming such animal and shall be in addition to the fees herein set.

(c) Animal control (animal shelter) shall keep complete and accurate records of all animals impounded, and should an owner's animal be impounded a second time, then in such event, animal control, prior to releasing said animal, shall require a fee of fifteen dollars (\$15.00) to be paid by such owner, plus ten dollars (\$10.00), plus three dollars and fifty cents (\$3.50) per day. Upon each subsequent impoundment of said owner's animal, the animal control officer shall not release said dog until the owner shall have paid a fee of twenty-five dollars (\$25.00), plus ten dollars (\$10.00), plus three dollars and fifty cents (\$3.50) per day. Upon a fourth impoundment, the animal may be seized and placed for adoption or euthanized.

The continual allowing of an animal to run at large shall be prima facie evidence of the owner's refusal to comply with the City of Newport Animal Control Codes.

(4) (a) Any animal impounded under provisions of this section and redeemed by its owner within three (3) days/seventy-two (72) hours may be adopted and the title to the animal transferred to some responsible and suitable owner, who will agree to comply with the provisions of this section and such other regulations as may be fixed by the shelter's adoption contact or the State of Tennessee.

(b) Any person adopting an animal impounded in the city animal shelter shall be exempt from any impound fees associated with that animal and shall be required to pay only the adoption fee for said animal fifty dollars (\$50.00) for a canine, (dog or puppy), and twenty-five dollars (\$25.00) for a feline, (cat or kitten).

(c) The Newport Animal Shelter reserves the authority to refuse any person the right to adopt any animal in the city shelter, for any reason(s). (Ord. #93-5, June 1993)

10-223. Fraudulent redemption or adoption of animals. (1) If any person shall obtain possession, custody, or adoption of any animal impounded

in the city animal shelter or in the custody of the animal control officer for on or behalf of the owner thereof for the purpose of avoiding payment of the fees and penalties imposed upon the owner by this section, both the owner of such animal and the person so obtaining possession, custody or adoption of the dog for the owner shall be deemed to have violated the terms of this section.

(2) Upon conviction of fraudulent redemption or adoption of an animal the owner shall be responsible for any fees or penalties due prior to the fraudulent redemption and both the owner and the person so obtaining possession, custody or adoption of the animal shall be fined no less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) each. (Ord. #93-5, June 1993)

10-224. Failure or refusal to redeem an impounded dog. (1) Should the owner of an animal impounded in the city animal shelter be known and made aware of his animal's impoundment or should identify himself as the owner to the animal control officer or shelter staff and then refuse or fail to redeem the impounded animal and pay the associated fees and penalties said owner shall be deemed to be in violation of this chapter.

(2) Upon conviction an owner failing or refusing to redeem an animal shall be fined no less than the amount consistent with the appropriate impound fee for that dog, plus three dollars and fifty cents (\$3.50) per day for each day held in the shelter for kennel care plus thirty dollars (\$30.00) euthanasia fee regardless of the eventual disposition of the impounded animal by animal control. (Ord. #93-5, June 1993)

10-225. Euthanasia of animals. (1) The animal control officer or shelter director shall be authorized to euthanize or have euthanized any animal which remains in impound and unclaimed for a period of three (3) days or more.

(2) The animal control officer shall be authorized to euthanize or have euthanized any animal which is found or reported to be injured to such an extent that it is suffering with little hope of recovery and the owner of which is unknown or not readily available to assume responsibility for the animal.

(3) The animal control officer shall be authorized to euthanize any stray or animal at large which is taken into custody that has no identity of ownership and which in the opinion of the animal control officer or shelter director is so disease ridden or physically impaired as to be suffering and impoundment of which would only prolong the condition.

(4) The animal shelter staff shall euthanize or have euthanized animals by a method approved by local licensed veterinarians and shall dispose of the remains in a sanitary way approved by the city under the state regulations. (Ord. #93-5, June 1993)

10-226. Veterinary care of sick or injured animals. (1) It shall be the duty of the animal shelter staff and/or animal control officer to seek prompt

veterinary care and treatment for any sick, injured, abused or neglected animal which is taken into custody or impounded in the city shelter.

(2) Expenses for such veterinary care shall be the responsibility of the owner of the animal if known, otherwise such expenses shall be paid by the City of Newport.

(3) The animal control officer shall also be authorized to call upon any of the locally licensed veterinarians for advice or assistance as may be necessary. (Ord. #93-5, June 1993)

10-227. Adoption disclaimer. (1) Although the animal control officer or shelter director shall make a reasonable effort through observation and routine care of animals impounded at the city animal shelter for obvious signs of disease and/or injury neither the city nor the animal control officer or shelter director can guarantee the medical, physical, emotional soundness of any animal adopted under the provisions of this chapter.

(2) The Newport Animal Shelter will not knowingly permit the adoption of an unfit animal. (Ord. #93-5, June 1993)

10-228. Removal and disposal of dog or cat feces from public or private property regulated. (1) Defecation on public or private property. No person owning or in charge of any dog or cat shall cause or allow such dog or cat to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, riverbank, passageway, bypath, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of said private property.

(2) Removal of feces. Any person owning or in charge of any dog or cat which soils, defiles, defecates or commits any nuisance on any common thoroughfare, riverbank, passageway, bypath, play area, park or any place where people congregate or walk or upon public property whatsoever or upon any private property without the permission of owner or said property shall immediately remove feces deposited by any such dog or cat by any sanitary method approved by the local enforcement authority. Sanitary methods for removing all feces are mechanical devices such as poop scoopers, small shovels, etc.

(3) Sanitary disposal of feces. (a) The owner or person in charge of such dog or cat shall remove and dispose of all feces in a sealed, nonabsorbent, leak proof container, such as a sealed plastic bag. Such material shall not be disposed in public trash receptacles or storm drains.

(b) Any owner or person in charge of a dog or cat being walked upon any common thoroughfare, sidewalk, riverbank, passageway, bypath, play area, park or any place where people congregate must have in their possession their cleanup device and nonabsorbent leak proof container(s).

(4) Exceptions. Legally blind persons who may use dogs as guides shall be exempt from provisions of this section.

(5) Violations and penalties. Any person that violates the provisions of this section shall be subject to a fine of fifty dollars (\$50.00). (Ord. #2006-9, Oct. 2006)

10-229. Penalty. Any person found guilty of violating any provision of this chapter of the Code of Ordinances of the City of Newport shall be fined a sum not exceeding fifty dollars (\$50.00).¹ (Ord. #93-5, June 1993, modified)

¹Plus court costs, or damages if any.

TITLE 11**MUNICIPAL OFFENSES¹****CHAPTER**

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.
8. OBSCENITY, MORALS.
9. LOITERING, ETC.
10. GAMBLING.

CHAPTER 1**MISDEMEANORS OF THE STATE ADOPTED****SECTION**

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted. All offenses against the state which are defined by state law to be misdemeanors are hereby designated and declared to be the laws and ordinances of the city and any violation of any such state law within the corporate limits is also a violation of this section. (1973 Code, § 12-1)

¹Municipal code references

Animal control: title 10.

Housing and utility codes: title 12.

Traffic offenses: title 15.

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

CHAPTER 2**ALCOHOL**¹**SECTION**

11-201. Public drinking and public display of alcoholic beverage prohibited.

11-201. Public drinking and public display of alcoholic beverage prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit, or show an unsealed bottle containing any alcoholic beverage in any restaurant, eating place or tavern, or in the parking area of any drive-in restaurant, or on any public street, or sidewalk, or in any public park, playground, auditorium, theater, stadium, school, or school ground or in any other public place. (Ord. #__, 1983)

¹Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

CHAPTER 3**OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

11-303. Engine compression braking devices prohibited in city.

11-301. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1973 Code, § 12-2)

11-302. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise within the city is unlawful. 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 unlawful.

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

(a) Blowing horns. 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 if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

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

(c) Yelling and shouting. Yelling, shouting, hooting, whistling, or singing on the public street, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any persons in the vicinity.

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

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

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

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

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

(i) Noises near schools, hospitals, and similar institutions. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while it is in session.

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

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

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

(2) None of the terms or prohibitions of this section shall apply to or be enforced against:

(a) City vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Public improvements. Excavations or repairs of bridges, streets, or highways, by or on behalf of the city, the county, or the state, during the night when the public welfare and convenience renders it impossible to perform such work during the day.

(c) Noncommercial use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system shall be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1973 Code, § 12-21)

11-303. Engine compression braking devices prohibited in city.

(1) All truck tractor and semi-trailers operating within the City of Newport shall conform to the visual exhaust system inspection requirements, 40 C.F.R 202.22, of the Interstate Motor Carriers Noise Emission Standards.

(2) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in subsection (1) of this section if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

(a) Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements (small traces of soot on flexible exhaust pipe sections shall not constitute a violation); or

(b) Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or

(c) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(3) Violations of this section shall subject the offender to a fine of fifty dollars (\$50.00) per offense.

(4) This section shall be supplemental to other noise control ordinances and regulations of the city, and shall be effective upon its final passage. (Ord. #2006-16, Jan. 2007)

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL**SECTION**

11-401. False emergency alarms.

11-402. Escape from jail.

11-401. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1973 Code, § 12-9)

11-402. Escape from jail.¹ It shall be unlawful for any person, while a prisoner in the city jail or otherwise in custody of and 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. (1973 Code, § 12-10)

¹State law reference

Escape: Tennessee Code Annotated, § 39-16-605.

CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Assault and battery; assault with a weapon.

11-502. Throwing missiles.

11-503. Weapons.

11-501. Assault and battery; assault with a weapon.¹ It shall be unlawful for any person to maliciously beat, strike, wound or otherwise inflict violence on another or to assault another with a lethal weapon, instrument or thing with intent to commit upon the person of another any bodily injury. (1973 Code, § 12-3)

11-502. Throwing missiles.² It shall be unlawful for any person to maliciously throw any stone, snowball, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground. (1973 Code, § 12-8)

11-503. Weapons.³ (1) It shall be unlawful for any person in the city to carry in any manner on or about his person or in his portfolio or purse, with the intent of going armed, any razor, dagger, slingshot, black jack, chain, nightstick, pipe, stick, sword, cane, ice pick, spear, knuckles made of any metal or any hard substance, Bowie knife, switchblade knife, spring knife, throw blade knife, knife with a blade over four (4) inches in length or with an overall length of eight (8) inches, pistol, gun, revolver, or any like instrument unless the person is performing the official duties of a duly appointed police officer for the city, county, state or federal governments, or the armed forces of the United States, or is authorized by law to go armed.

(2) It shall be unlawful for any person in the city to discharge or fire a firearm unless the person is performing an official duty as a duly appointed police officer for the city, county, state or federal governments, or the armed forces of the United States. (1973 Code, § 12-19)

¹State law reference

Assaults: Tennessee Code Annotated, § 39-13-101 and § 39-13-102.

²State law reference

Throwing or casting missiles: Tennessee Code Annotated, § 39-14-413.

³State law reference

Weapons: Tennessee Code Annotated, § 39-13-1302.

CHAPTER 6**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

11-601. Trespassing.

11-601. Trespassing. It shall be unlawful for any person to willfully, maliciously, wantonly or negligently injure, deface, destroy or remove real property or improvements thereto or movable or personal property, belonging to the city or to any person in the city. (1973 Code, § 12-4)

CHAPTER 7**MISCELLANEOUS****SECTION**

11-701. Spitting.

11-702. Conspiracy.

11-703. Posting notices, etc.

11-704. Curfew on persons under eighteen.

11-705. Disturbing the record's court.

11-706. Burials in other than cemeteries prohibited; establishment of new cemeteries.

11-701. Spitting. It shall be unlawful for any person to spit or expectorate on any sidewalk within the city. (1973 Code, § 12-17)

11-702. Conspiracy. It shall be unlawful for any persons within the city to assemble together and agree or conspire to do any unlawful act, with force or violence, against the property or person of another or against the peace of the city. (1973 Code, § 12-18)

11-703. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property in the city unless legally authorized to do so. (1973 Code, § 12-5)

11-704. Curfew on persons under eighteen. (1) It shall be unlawful for any person under the age of eighteen (18) years to be upon or remain on any street or other public place of the city after the hour of 12:00 midnight, unless accompanied by a parent, guardian, legal custodian or other person having the custody of the minor, or unless the person shall be a member of the armed forces.

(2) It shall be unlawful for any person under the age of fifteen (15) years to be upon or remain upon any street or public place of the city after the hour of 10:00 P.M., unless accompanied by a parent, guardian or legal custodian.

(3) No child or minor person shall be placed in confinement for a violation of this section until the child or minor person shall have first been taken to his home or place of residence to ascertain whether the parent, guardian or other legal custodian wishes to either refuse or accept responsibility for the child or minor.

(4) It shall be the duty of the recorder to determine the proper steps to be taken after the refusal or acceptance by the parent, guardian or legal custodian of minor thus charged, pursuant to subsection (3). (1973 Code, § 12-16)

11-705. Disturbing the recorder's court. It shall be unlawful for any person to create a disturbance of any trial before the recorder's court by any loud or unusual noise or any indecorous, profane or blasphemous language. (1973 Code, § 12-20)

11-706. Burials in other than cemeteries prohibited; establishment of new cemeteries. It shall be unlawful for any person to establish any graveyard or cemetery, public or private, or to bury any dead body within the city except within cemeteries already lawfully in existence or hereafter created or established by the board of mayor and aldermen. (1973 Code, § 12-22)

CHAPTER 8**OBSCENITY, MORALS****SECTION**

- 11-801. Disorderly houses.
- 11-802. Prostitution and lewdness.
- 11-803. Indecent or improper exposure or dress.
- 11-804. Window peeping.
- 11-805. Profanity, etc.

11-801. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others. (1973 Code, § 12-12)

11-802. Prostitution and lewdness. It shall be unlawful for any person to commit or offer or agree to commit or to secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion. No person shall knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose. (1973 Code, § 12-11)

11-803. Indecent or improper exposure or dress. It shall be unlawful for any person to publicly appear naked or in any dress not appropriate to his sex, or in any indecent or lewd dress, or to otherwise make any indecent exposure of his or her person. (1973 Code, § 12-15)

11-804. Window peeping.¹ It shall be unlawful for any person to look, peer, or peep into or be found loitering around or within view of, any window not on his own property with the intent of watching or looking through the window. (1973 Code, § 12-13)

11-805. Profanity, etc. It shall be unlawful for any person to use any vulgar, profane or indecent language in any public street or other public place or in any place of business open to public patronage. (1973 Code, § 12-14)

¹State law reference

Observation without consent: Tennessee Code Annotated, § 39-13-607.

CHAPTER 9**LOITERING, ETC.****SECTION**

11-901. Loitering.

11-901. Loitering. It shall be unlawful for any person to be found loitering or strolling in, about or upon any street, alley or other public way or public place or at any public gathering or assembly, or in or around any store, shop, or business or commercial establishment, or on any private property or place, without lawful business or while conducting himself in a lewd, wanton or lascivious manner in speech or behavior or while unable to reveal a visible means of support or give a satisfactory account of himself. (1973 Code, § 12-6)

CHAPTER 10**GAMBLING****SECTION**

11-1001. Gambling.

11-1001. Gambling.¹ It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. It shall be unlawful for any person to encourage, promote or assist any other person in gambling. It shall also be unlawful for any person to have in his possession any gambling table or other device whatever for the enticement of any person to gamble. (1973 Code, § 12-7)

¹State law reference

Gaming: Tennessee Code Annotated, § 39-17-501, et seq.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. AMUSEMENT DEVICE CODE.
7. SWIMMING POOL CODE.
8. UNSAFE BUILDING ABATEMENT CODE.
9. MECHANICAL CODE.
10. EXISTING BUILDINGS CODE.
11. ONE AND TWO FAMILY DWELLING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Adopted.
- 12-102. Modifications.
- 12-103. Amendments.
- 12-104. Filing.
- 12-105. Violations.

12-101. Adopted. For the purpose of regulating the construction, alteration, repair, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the Standard Building Code,² 1999 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as if set out at length in this chapter and

¹Municipal code references

Fire protection: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: title 18.

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

shall be the building code of the city. (1973 Code, § 6-17, as amended by Ord. #99-08-A, Aug. 1999)

12-102. Modifications. Whenever the building code adopted in this chapter refers to the "chief appointing authority" or the "chief administrator," it shall be deemed to be a reference to the board of mayor and aldermen; when the "building official" or "director of public works" is named, it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code. (1973 Code, § 6-18)

12-103. Amendments. The building code of the city as adopted in this chapter, is amended in the following respects:

Section 107.2. Failure to Obtain a Permit. This section is amended to read as follows:

It shall be unlawful for any person to commence any work on a building or structure before obtaining the necessary permit therefor from the city.

Section 107.4. Schedule of Permit Fees. This section is amended to read as follows:

On all buildings, structures or alterations requiring a building permit, as set forth in section 105, a fee shall be paid as required at the time of filing application, in accordance with the following schedule:

(a) Permit fees.

1. Where the valuation does not exceed one hundred dollars (\$100.00), no fee shall be required unless an inspection is necessary, in which case there shall be a one dollar (\$1.00) fee.
2. For a valuation over one hundred dollars (\$100.00) up to and including two thousand five hundred dollars (\$2,500.00), the fee shall be one dollar (\$1.00) per five hundred dollars (\$500.00) or fraction thereof.
3. For a valuation over two thousand five hundred dollars (\$2,500.00), the fee shall be five dollars (\$5.00) for the first two thousand five hundred dollars (\$2,500) plus one dollar (\$1.00) for each additional thousand or fraction thereof.

(b) Moving of building or structures. For the moving of any building or structure, the fee shall be ten dollars (\$10.00).

(c) Demolition of buildings or structures. For the demolition of any building or structure, the fee shall be ten dollars (\$10.00).

Section 114. Violations and Penalties. This section is deleted in its entirety. (1973 Code, § 6-19, as amended by Ord. #90-9-B, Oct. 1990)

12-104. Filing. One (1) copy of the building code adopted in this chapter, with the modifications and amendments thereof are on file in the recorder's office and shall be kept there for the use and inspections of the public. (1973 Code, § 6-20, modified)

12-105. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code adopted in this chapter, as modified and amended in this chapter. (1973 Code, § 6-21)

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Adopted.
- 12-202. Modifications.
- 12-203. Amendments.
- 12-204. Filing.
- 12-205. Compliance required.

12-201. Adopted. For the purpose of regulating plumbing installations including alterations, repairs, equipment, appliances, fixtures, fittings and the appurtenances thereto, within and without the city when such plumbing is, or is to be, connected with the city public water or sewerage systems, the Standard Plumbing Code,² 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as if set out at length in this chapter and shall be referred to as the plumbing code. (1973 Code, § 6-64, as amended by Ord. #99-08-A, Aug. 1999)

12-202. Modifications. (1) Whenever the plumbing code adopted in this chapter refers to the "chief appointing authority," the "administrative authority" or the "governing authority," it shall be deemed to be a reference to the board of mayor and aldermen.

(2) When the "city engineer" is named in the plumbing code adopted in this chapter, it shall mean the "superintendent of streets."

(3) The "plumbing official" or "inspector," as used in the plumbing code adopted in this chapter, shall be such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the plumbing code. (1973 Code, § 6-65)

¹Charter references

Newport Utilities Board: § 1.18.

Sewer charges: § 1.20.

Waterworks and sewers: § 1.19.

Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

12-203. Amendments. The plumbing code adopted in this chapter is amended in the following respects:

Section 106.2. Failure to Obtain a Permit. This section is amended to read as follows:

It shall be unlawful for any person to commence any plumbing installation before obtaining the necessary permit therefor from _____.

Section _____ Violations and Penalties. This section is deleted in its entirety. (1973 Code, § 6-66)

12-204. Filing. One (1) copy of the plumbing code adopted in this chapter, with the modifications and amendments thereof, has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1973 Code, § 6-67, modified)

12-205. Compliance required. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code adopted in this chapter by reference, as modified and amended. (1973 Code, § 6-68)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Adopted.
- 12-302. Filing.
- 12-303. Compliance required.
- 12-304. Permit required.
- 12-305. Enforcement.

12-301. Adopted. For the purpose of providing a practical minimum standard for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling and for other purposes, the National Electrical Code,² 1971 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as if set out at length in this chapter, and shall be referred to as the electrical code. (1973 Code, § 6-32)

12-302. Filing. One (1) copy of the electrical code adopted in this chapter is on file in the recorder's office and shall be kept there for the use and inspection of the public. (1973 Code, § 6-33, modified)

12-303. Compliance required. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such a manner or under such circumstances as not to comply with the requirements and the standards prescribed by the electrical code adopted in this chapter. (1973 Code, § 6-34)

12-304. Permit required. No person shall make any electrical installation in the city without first obtaining a permit therefor from the Newport Utilities Board in conformity with the rules of the board. (1973 Code, § 6-35)

12-305. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate for that office. It shall be the electrical inspector's duty to enforce compliance with the electrical code as adopted in this chapter; he is authorized and directed to make such

¹Municipal code references
Fire protection: title 7.

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

inspections of electrical equipment and wiring as are necessary to insure compliance with the electrical code and may enter any premises or building at any reasonable time for the purpose of discharging his duties. The electrical inspector is authorized to refuse or discontinue electrical service to any person or place not complying with the electrical code. (1973 Code, § 6-36)

CHAPTER 4

GAS CODE

SECTION

- 12-401. Adopted.
- 12-402. Amendments.
- 12-403. Filing.
- 12-404. Installation or repair permit required.
- 12-405. Permit fee.
- 12-406. Enforcement.
- 12-407. Violations.

12-401. Adopted. For the purpose of regulating the installation of consumer's gas piping and gas appliances, the Standard Gas Code,¹ 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as if set out at length in this chapter and shall hereinafter be referred to as the gas code. (1973 Code, § 6-47, as amended by Ord. #99-08-A, Aug. 1999)

12-402. Amendments. The gas code adopted in this chapter is hereby amended in the following respects:

Section 103. Qualified installing agency. This section is amended to read as follows:

Installation and replacement of a consumer's gas piping or gas appliances and repair of a consumer's gas appliances shall be performed only by a qualified agency which has filed with the city evidence of a liability bond or insurance policy in the sum of ten thousand dollars (\$10,000.00) which indemnifies and saves harmless the city and all persons therein from any loss, cost or damage caused by negligent, inadequate, imperfect or defective work done by the agency while acting in the scope and course of its employment. By the term "qualified agency" is meant any individual, firm, corporation, or company which either in person or through a representative is engaged in and is responsible for the installation, replacement or repair of consumer gas piping, or the connection, installation, repair or servicing of gas appliances, and who is experienced in such work and familiar with all precautions required. (1973 Code, § 6-48)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-403. Filing. One (1) copy of the gas code adopted in this chapter has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1973 Code, § 6-40, modified)

12-404. Installation or repair permit required. No property owner shall cause or permit, nor shall any person install, modify, change or repair any house gas piping or any gas appliance or fixture within the city or its gas service territory until the person proposing to do the work shall have first obtained a permit therefor from the city. (1973 Code, § 6-50)

12-405. Permit fee. There shall be charged a fee of one dollar (\$1.00) for each permit issued pursuant to this chapter. The fee shall include the costs of one (1) inspection to be made by the gas inspector. Should additional inspections be necessary, there shall be an added charge of one dollar (\$1.00) for each such inspection. (1973 Code, § 6-51)

12-406. Enforcement. The gas inspector shall be such person as the board of mayor and aldermen shall appoint or designate to enforce the provisions of this chapter and the gas code; he shall inspect the installation, modification or repair of all gas piping, connections, appliances and fixtures; he may enter any building or premises at any reasonable time for the discharge of his duties. The gas inspector shall not approve any gas piping installation, connection, repair, modification or appliance which fails to meet the minimum requirements of this chapter or the gas code. Immediately upon completion of the inspection, the gas inspector shall notify the owner, his agent or the occupant of the inspected property as to whether or not the inspection has been satisfactory. When the inspection reveals defective workmanship, material or any violations of this chapter or the gas code, written notice of the same thereof shall be given by the gas inspector and he shall refuse gas service until the defects have been corrected. (1973 Code, § 6-52)

12-407. Violations. It shall be unlawful for any person to do or authorize any gas installation or repair work or to use any gas in such a manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the gas code. (1973 Code, § 6-53)

CHAPTER 5
HOUSING CODE

SECTION

- 12-501. Housing code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations.

12-501. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,¹ 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (Ord. #99-08-A, Aug. 1999)

12-502. Modifications. (1) Definitions. Wherever the housing code refers to the "housing official" it shall mean the person appointed or designated by the mayor to administer and enforce the provisions of the housing code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the board of mayor and aldermen.

(2) Penalty clause deleted. Section 108 of the housing code is deleted.

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 6**AMUSEMENT DEVICE CODE**¹**SECTION**

12-601. Amusement device code adopted.

12-602. Modifications.

12-603. Available in recorder's office.

12-604. Violations.

12-601. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,² 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (Ord. #99-08-A, Aug. 1999)

12-602. Modifications. Definitions. Whenever the amusement device code refers to the "chief administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "building official" is named it shall, for the purposes of the amusement device code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the amusement device code.

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the amusement device code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

¹Municipal code references

Fire protection: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: title 18.

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

CHAPTER 7

SWIMMING POOL CODE¹

SECTION

12-701. Swimming pool code adopted.

12-702. Modifications.

12-703. Available in recorder's office.

12-704. Violations.

12-701. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,² 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #99-08-A, Aug. 1999)

12-702. Modifications. Definitions. Whenever the swimming pool code refers to the "administrative authority," it shall be deemed to be a reference to the building official or his authorized representative. When the "building official" is named it shall, for the purposes of the swimming pool code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the swimming pool code.

12-703. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

¹Municipal code references

Fire protection: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: title 18.

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

CHAPTER 8

UNSAFE BUILDING ABATEMENT CODE

SECTION

- 12-801. Findings of board.
- 12-802. Definitions.
- 12-803. "Public official" designated; powers.
- 12-804. Initiation of proceedings; hearings.
- 12-805. Orders to owners of unit structures.
- 12-806. When public official may repair, etc.
- 12-807. When public official may remove or demolish.
- 12-808. Lien for expenses; sale of salvage materials; other powers not limited.
- 12-809. Basis for a finding of unfitness.
- 12-810. Service of complaints or orders.
- 12-811. Enjoining enforcement of orders.
- 12-812. Additional powers of public official.
- 12-813. Powers conferred are supplemental.
- 12-814. Structures unfit for human habitation deemed unlawful.

12-801. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the person designated by the board of mayor and alderman finds that there exist 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. (Ord. #03-01-14C, Jan. 2003)

12-802. Definitions. (1) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(2) "Municipality" shall mean the City of Newport, Tennessee and the areas encompassed within existing city limits or as hereafter annexed.

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

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

(5) "Public authority" shall mean any housing authority, officer, or official 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.

(6) "Public official" 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.

(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, outbuildings, and appurtenances belonging thereto or usually enjoyed therewith. (Ord. #03-01-14C, Jan. 2003)

12-803. "Public official" designated; powers. There is hereby designated and appointed a "public official," to be the code enforcement official of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the code enforcement officer. (Ord. #03-01-14C, Jan. 2003)

12-804. Initiation of proceedings; hearings. Whenever a petition is filed with the public official 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 official (on his own motion) that any structure is unfit for human occupation or use, the public official 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 official (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 to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public official. (Ord. #03-01-14C, Jan. 2003)

12-805. Orders to owner of unfit structures. (1) If, after such notice and hearing as provided for in the preceding section, the public official determines that the structure under consideration is unfit for human occupancy or use, they 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;

(2) 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 move such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or

(3) 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 order, to remove or demolish such structure. (Ord. #03-01-14C, Jan. 2003)

12-806. When public official 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 official may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public official 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." (Ord. #03-01-14C, Jan. 2003)

12-807. When public official may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public official may cause such structure to be removed and demolished. (Ord. #03-01-14C, Jan. 2003)

12-808. 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 official shall be assessed against the owner of the property, and shall upon the filing of the notice with the officer of the Register of Deeds of Cocke 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 delinquent property taxes are collected. If the owner fails to pay the cost, they may be collected at the same time, 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 cost assessed against the owner through a action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against who said cost 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 official, he or she shall sell the materials of such structure and shall credit the proceeds of such a sale against the cost of the removal or demolition, any balance remaining shall be deposited in the Chancery Court of Cocke County by the public official, 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 Newport to

define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #03-01-14C, Jan. 2003)

12-809. Basis for a finding of unfitness. The public official defined herein shall have the power and may determine that a structure is unfit for human occupancy and use if he finds that the 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 Newport; such conditions may include the following (without limiting the generality of the foregoing); defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness (Ref. Standard Housing Code). (Ord. #03-01-14C, Jan. 2003)

12-810. Service of complaints or orders. Complaints or orders issued by the public official 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 official in the exercise of reasonable diligence, and the public official 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 office of Cocke County, Tennessee, and such filing shall have the same force and effect as other liens pending notices provided by law. (Ord. #03-01-14C, Jan. 2003)

12-811. Enjoining enforcement of orders. Any person affected by an order issued by the public official served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public official from carrying out the provisions of the order, and the court may, upon filing of such suit, issue a temporary injunction restraining the public official 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 official, 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 official shall be entitled to recover any damages for action taken pursuant to any order of the public official, or because of noncompliance by such person with any order of the public official. (Ord. #03-01-14C, Jan. 2003)

12-812. Additional powers of public official. The public official, 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 they deem 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 whom they may designate. (Ord. #03-01-14C, Jan. 2003)

12-813. Powers conferred is 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. (Ord. #03-01-14C, Jan. 2003)

12-814. 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 occupancy 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 (\$500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #03-01-14C, Jan. 2003)

CHAPTER 9

MECHANICAL CODE¹

SECTION

- 12-901. Mechanical code adopted.
- 12-902. Modifications.
- 12-903. Available in recorder's office.
- 12-904. Violations.

12-901. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the Standard Mechanical Code,² 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #99-08-A, Aug. 1999)

12-902. Modifications. Definitions. Wherever the mechanical code refers to the "building department," "mechanical official," or "building official," or "inspector" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the mechanical code.

12-903. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public.

¹Charter references

Newport Utilities Board: § 1.18.

Sewer charges: § 1.20.

Waterworks and sewers: § 1.19.

Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

CHAPTER 10

EXISTING BUILDINGS CODE¹

SECTION

- 12-1001. Existing buildings code adopted.
- 12-1002. Modifications.
- 12-1003. Available in recorder's office.
- 12-1004. Violations.

12-1001. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the Standard Existing Buildings Code,² 1997 edition, as prepared by the International Code Council, is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the standard existing buildings code. (Ord. #99-08-A, Aug. 1999)

12-1002. Modifications. Whenever the standard existing buildings code refers to the "chief appointing authority" it shall be deemed to be a reference to the board of mayor and aldermen of the city and whenever the same refers to the "chief administrator" it shall be deemed to be a reference to the board of mayor and aldermen of the city. Whenever the standard existing buildings code shall refer to the "building official" it shall mean such person designated by the board of mayor and aldermen to administer and enforce the provisions of the various standard codes of the city.

12-1003. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the standard existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public.

12-1004. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard existing buildings code or any

¹Municipal code references

Fire protection: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: title 18.

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

final order made pursuant thereto. Such violation is declared an offense against the city and for which punishment shall be a fine of not more than fifty dollars (\$50.00) for each such violation. Each day that a violation occurs shall be deemed a separate offense. The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the city by any person, firm or corporation found to be in such violation.

CHAPTER 11**ONE AND TWO FAMILY DWELLING CODE****SECTION**

12-1101. One and two family dwelling code adopted.

12-1102. Modifications.

12-1103. Available in recorder's office.

12-1104. Violations.

12-1101. One and two family dwelling code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alterations, repair, location, and use of detached one and two family dwellings and their appurtenances and accessory structures, the One and Two Family Dwelling Code,¹ 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the dwelling code. (Ord. #99-08-A, Aug. 1999)

12-1102. Modifications. Whenever the words "building official" are used in the dwelling code, they shall refer to the person designated by the board of mayor and aldermen to enforce the dwelling code. Section R-106 of the dwelling code is hereby deleted.

12-1103. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the dwelling code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-1104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the dwelling code as herein adopted by reference and modified.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. STORAGE, ABANDONMENT AND IMPOUNDMENT OF VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Clearance of lots.
- 13-103. Screening of junkyards.
- 13-104. Health and sanitation nuisances
- 13-105. Butchering to comply with state law.
- 13-106. Food service establishments.
- 13-107. Milk and milk products.

13-101. Health officer. The "health officer" referred to in this code shall be such city, county or state officer as the board of mayor and aldermen may appoint or designate to enforce applicable health and sanitation laws within the city; he shall have such powers and duties as are prescribed for the office in this code and in the general laws of the state. (1973 Code, § 10-1)

13-102. Clearance of lots. (1) The existence within the city of lots and parcels of land overgrown with noxious weeds or burdened with accumulations of rubbish and refuse are hereby declared to be a nuisance.

(2) It shall be unlawful for any person owning, leasing, occupying or having control of property in the city to permit or suffer weeds or other vegetation to grow, or trash, rubbish and refuse to accumulate on the property to such an extent that such a nuisance is created.

(3) In complying with subsections (1) and (2), it shall be unlawful to rake up, cut up or pile up weeds and rubbish that might interfere with the vision of vehicle operators or pedestrians or impair proper water drainage.

(4) Upon failure of any property owner, lessee or other person in charge of premises to comply with this section, it shall be the duty of the recorder to serve notice upon the owner, lessee, or other person in possession

¹Municipal code references
Animal control: title 10.

and control of the property that such a nuisance is declared, either by a representative of his office or by posting the notice on the property upon which the nuisance is declared and to give five (5) days in which to correct the conditions. (1973 Code, § 12-23)

13-103. Screening of junkyards. (1) Any person who shall have upon his premises more than three (3) disabled vehicles or is in the business of buying, selling, sorting, baling, processing or storing any type of scrap metal or other related items, shall be hereby classified as a junk dealer.

(2) Any person using property inside the city as a junk dealer shall be required to purchase from the office of the recorder a license authorizing him to act in the business of "junk." The cost of the license shall not exceed the amount set forth by the general law of the state.

(3) Any property used for the business of a junk dealer shall be required to be fenced in or around all of the properties used for such purposes. The fence shall be of such construction as to obscure the junkyard from public view and not less than six (6) feet in height.

(4) It shall be the duty of the recorder, upon the filing of a complaint either by his office or by owners or leasee of surrounding properties, to see that all the provisions of this section are carried out. (1973 Code, § 12-24)

13-104. Health and sanitation nuisances. It shall be unlawful for any person to allow premises owned by him or under his control to become a public health or sanitation nuisance because of a particular use or because of a failure to properly maintain the premises. (1973 Code, § 10-2)

13-105. Butchering to comply with state law. It shall be unlawful for any person to butcher any cattle, hog or sheep within the city unless the butchering is done in strict accordance with the applicable state laws, rules and regulations in effect at the time. (1973 Code, § 10-18)

13-106. Food service establishments. (1) Minimum standards adopted. The inspection of eating and drinking establishments within the city or its police jurisdiction, the issuing, suspension and revocation of permits for the operation of such establishments, the sale of adulterated, misbranded, or unwholesome food and drink and the enforcement of this section shall be regulated in accordance with the terms of the unabridged form of the 1962 edition of the U. S. Public Health Service Ordinance Food Service Sanitation Ordinance as set out in the Food Service Sanitation Manual, 1962 edition, published by the United States Public Health Service. Three (3) copies of which publication have been filed with the recorder in accordance with the provisions of state law.

(2) "Municipality," as used in code, defined. Wherever the term "municipality of . . ." shall appear in the food service code adopted in this chapter, it shall mean the City of Newport.

(3) Parenthetical expressions deleted from code. All parenthetical expressions referring to grading shall be deleted from the food service code adopted in this section.

(4) Amendments to code. The food service code adopted in this section is hereby amended as follows:

Section E, subsection 4, shall read as follows:

4. Toilet facilities: Each food-service establishment shall be provided with adequate, conveniently located toilet facilities for its employees, conforming with the requirements of the state department of public health. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be selfclosing. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered. Where the use of nonwater-carried sewage disposal facilities have been approved by the health authority, such facilities shall be separate from the establishment and shall comply with the standards of the state department of public health. When toilet facilities are provided for patrons, such facilities shall meet the requirements of this subsection.

Section H, subsection 7, shall read as follows:

7. Penalties. Any person, firm or corporation violating any provisions of this code shall, upon conviction, be punished in accordance with the provisions of the general penalty clause of the Code of Ordinances of the City of Newport. (1973 Code, § 10-24--10-27)

13-107. Milk and milk products. (1) Milk code adopted; filing. The production, transportation, processing, handling, sampling, examination, grading, labeling and sale of all milk and milk products sold for the ultimate consumption within the city or its police jurisdiction, the inspection of dairy herds, dairy farms, and milk plants, the issuing and revocation of permits to milk producers, haulers and distributors, shall be regulated in accordance with the provisions of part I of the Grade A Pasteurized Milk Ordinance-1965 Recommendations of the United States Public Health Service, which is hereby adopted by reference. Three (3) copies of which code shall be filed in the office of the recorder.

(2) "Municipality," as used in milk code, defined. Whenever the term "municipality" is used in the milk code adopted in this division, it shall mean the City of Newport.

(3) Amendments to milk code. The milk code adopted in this division is hereby amended in the following respects:

Section I. Definitions. The following amendments are made to this section:

Subsection A. Milk. This subsection is amended to read as follows:

A. Milk. Milk is hereby defined to be the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than eight and one-half percent (8 ½) milk solids-not-fat and not less than three and one-half percent (3 ½) milkfat. (Milkfat or butterfat is the fat of milk.)

Subsection D. Reconstituted or recombined milk and milk products. This subsection is deleted.

Subsection I. Fortified milk and milk products. This subsection is deleted.

Subsection O. Milk products. The first paragraph of this subsection is amended to read as follows:

O. Milk products. Milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, cottage cheese, creamed cottage cheese, half-and-half, sour half-and-half, cultured half-and-half, concentrated milk, concentrated milk products, skim milk, skimmed milk, lowfat milk, vitamin D milk and milk products, homogenized milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified milk and milk products.

Subsection X. Health authority. This subsection is amended to read as follows:

X. Health authority. The health authority shall mean the Director of the Coker County Health Department or his authorized representative. The term "health authority," wherever it appears in this code, shall mean the appropriate agency having jurisdiction and control over the matters embraced within this code.

Subsection EE. Cottage cheese. This subsection is added and shall read as follows:

Cottage cheese: Cottage cheese is the soft uncured cheese obtained by adding lactic-acid producing bacteria, with or without enzymatic action, to pasteurized skim milk, pasteurized lowfat milk or pasteurized reconstituted skim milk. It shall contain

not more than eighty percent (80%) moisture. Cottage cheese may be seasoned with salt.

Subsection FF. Creamed cottage cheese. This subsection is added and shall read as follows:

Creamed cottage cheese: Creamed cottage cheese is prepared by mixing cottage cheese with a pasteurized creaming mixture consisting of pasteurized cream and milk, dry milk products, concentrated skim milk, skim milk, or lowfat milk, to which salt, lactic acid, and flavor producing bacteria, rennet, lactic acid, citric acid, phosphoric acid or stabilizer may be added. The quantity of milkfat added in the creaming mixture shall be not less than four percent (4%) by weight of the finished creamed cottage cheese. Dry milk products or concentrated skim milk may be added, provided the amount of added solids does not exceed three percent (3%) of the weight of the creaming mixture. Creamed cottage cheese shall contain not more than eighty percent (80%) moisture.

Section 3. Permits. This section is amended by deleting therefrom the fourth paragraph, which commences with the words, "Upon written application" Any other references in the milk code providing for hearings before a permit may be suspended are similarly deleted.

Section 5. Inspection of dairy farms and milk plants. This section is amended by revising the last sentence of the first paragraph to read as follows:

"Any violation of the same requirement of section 7 on such reinspection shall call for a permit suspension in accordance with section 3, as amended, and/or court action."

Section 9. Milk and milk products which may be sold. This section is amended to read as follows:

"From and after February 12, 1970, only Grade A pasteurized milk and milk products shall be sold to the final consumer or to restaurants, soda fountains, grocery stores or similar establishments; however, in an emergency the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown may be authorized by the health authority; in which case, such milk and milk products shall be labeled 'ungraded'."

Section 16. Penalty. This section shall be amended to read as follows :

"Any person who shall violate any of the provisions of this code shall be guilty of an offense and, upon conviction thereof, shall be punished as prescribed in penalty provisions of the Code of Ordinances of the City of Newport and such persons may be

enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation."

Section 17. Repeal and date of effect. This section is amended to read as follows:

"All ordinances and parts of ordinances in conflict with this chapter are hereby repealed, and this chapter shall be in full force and effect; upon its adoption and publication, as provided for by law." (1973 Code, §§ 10-33--10-35)

CHAPTER 2

STORAGE, ABANDONMENT AND IMPOUNDMENT OF VEHICLES

SECTION

- 13-201. Definitions.
- 13-202. Storage of vehicles on public property.
- 13-203. Abandonment of vehicles.
- 13-204. Wrecked or discarded vehicles.
- 13-205. Impoundment.
- 13-206. Notice of impoundment and repossession.
- 13-207. Disposition of unclaimed vehicles.
- 13-208. Penalties.

13-201. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Abandoned motor vehicle." A motor vehicle that is over four (4) years old and is left unattended on public property for more than thirty (30) days, or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a motor vehicle that has remained on private property without consent of the owner or person in control of the property for more than forty-eight (48) hours.

(2) "Person." Any person, firm, partnership, association, corporation, company, or organization of any kind.

(3) "Property." Any real property within the city which is not a street or highway.

(4) "Vehicle." Any machine propelled by power other than human power designated to travel along the ground by use of wheels, tread, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (Ord. #03-01-14D, Jan. 2003)

13-202. Storage of vehicles on public property. No person shall use any street, sidewalk, alley, or other publicly owned property within the city for the purpose of storing vehicles. This chapter shall not be construed as affecting in any way the right of any person to park a vehicle temporarily in any space set aside and designated as a parking space for vehicles. Any vehicle which is permitted to remain on any street, sidewalk, alley, or other publicly owned property for a period of forty-eight (48) hours without being moved, shall be presumed to be stored in the meaning of this chapter. (Ord. #03-01-14D, Jan. 2003)

13-203. Abandonment of vehicles. No person shall abandon any vehicle on any property within the city or 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. (Ord. #03-01-14D, Jan. 2003)

13-204. Wrecked or discarded vehicles. No persons in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any dismantled, partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the city for a longer time than ten (10) days, except that this chapter shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city. (Ord. #03-01-14D, Jan. 2003)

13-205. Impoundment. The person designated by the board of mayor and aldermen is hereby empowered to remove any vehicle found in violation of this chapter to a safe and secure place designated by them for that purpose. (Ord. #03-01-14D, Jan. 2003)

13-206. Notice of impoundment and repossession. Whenever the person designated by the board of mayor and aldermen removes any vehicle, by authority of this chapter, they shall there upon undertake to determine the owner of such vehicle. Upon ascertaining the name of the owner, he shall give notice to them, by certified mail, return receipt requested, that the vehicle is being held. Any owner may thereupon present to the city manager or recorder sufficient evidence of ownership and upon payment of cost of removal of such vehicle, including notice and mailing costs and a reasonable cost not to exceed five dollars (\$5.00) per diem per day for the storage thereof, the same shall be released to the owner thereof. (Ord. #03-01-14D, Jan. 2003)

13-207. Disposition of unclaimed vehicles. In the event a vehicle removed from public property under this chapter is not claimed during the period of thirty (30) days from date of removal, the city recorder shall proceed to sell such vehicle at public auction for cash to the highest bidder and out of the proceeds of the sale, he shall first defray the expenses of the sale, the expenses of removal and storage of the vehicle and the remainder, if any, shall be deposited back into the clean-up of the City of Newport's Zoning, Building, and Codes Compliance budget. (Ord. #03-01-14D, Jan. 2003)

13-208. Penalties. Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause of this code. (Ord. #03-01-14D, Jan. 2003)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Created; designated.
- 14-102. Composition; appointment of members.
- 14-103. Composition of members.
- 14-104. Terms of members.
- 14-105. Vacancies and removals.
- 14-106. Organization, powers and duties generally.

14-101. Created; designated. Pursuant to the provisions of state law, there is hereby created a planning commission for the city, to be known as hereinafter referred to as the Planning Commission for the City of Newport. (1973 Code, § 13-16)

14-102. Composition; appointment of members. The planning commission shall consist of seven (7) members. One (1) member shall be the mayor and one (1) member shall be an alderman selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. (1973 Code, § 13-17)

14-103. Compensation of members. All members of the planning commission shall serve as such without compensation. (1973 Code, § 13-18)

14-104. Terms of members. Except for the initial appointments, the terms of the five (5) appointive members of the planning commission shall be for five (5) years each. The five (5) appointive members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years respectively so that the term of one (1) member expires each year. The term of the member selected from the board of mayor and aldermen shall run concurrently with his membership on the board of mayor and aldermen. (1973 Code, § 13-19)

14-105. Vacancies and removals. Any vacancy in an appointive membership of the planning commission shall be filled for the unexpired term by the mayor who shall also have authority to remove any appointive member at his pleasure. (1973 Code, § 13-20)

14-106. Organization, powers and duties generally. The planning commission shall have such organization, rules, staff, powers, functions, duties and responsibilities as are prescribed in the general laws of the state relating to municipal planning commissions in Tennessee Code Annotated, title 13. (1973 Code, § 13-21)

CHAPTER 2**ZONING ORDINANCE****SECTION**

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Newport shall be governed by the "Zoning Ordinance, Newport, Tennessee," and any amendments thereto¹, and is included in this municipal code as Appendix A.

Amendments to the zoning map are of record in the office of the city recorder.

Subdivision regulations are published as a separate document and available in the office of the city recorder.

CHAPTER 3**FLOOD DAMAGE PREVENTION ORDINANCE****SECTION**

14-301. Flood damage control to be governed by flood damage prevention ordinance.

14-301. Flood damage control to be governed by flood damage prevention ordinance. Regulations governing flood damage control within the City of Newport shall be governed by ordinance #92-6, titled "Flood Damage Prevention Ordinance" and any amendments thereto.¹

¹Ordinance #92-6 and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. ADMINISTRATION AND ENFORCEMENT.
3. TRAFFIC DIVISION.
4. OFFICIAL TRAFFIC-CONTROL DEVICES.
5. ACCIDENTS.
6. PROCEDURE ON ARREST.
7. TRAFFIC VIOLATIONS BUREAU.
8. OPERATION.
9. SPEED LIMITS.
10. TURNING MOVEMENTS.
11. RIGHT-OF-WAY.
12. PEDESTRIANS.
13. BICYCLES.
14. STOPPING, STANDING OR PARKING.
15. PARKING METERS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 15-101. Definitions.
- 15-102. Required obedience to this chapter.
- 15-103. Application of this chapter to public employees.
- 15-104. Application of this chapter to persons propelling pushcarts or riding animals.
- 15-105. Use of coasters, roller skates, skateboards and similar devices restricted.
- 15-106. Play streets.
- 15-107. Boarding or alighting from vehicles.
- 15-108. Unlawful riding.

5-101. Definitions. As used in this chapter, the following terms shall have the meanings ascribed to them:

¹Municipal code reference

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

(1) "Authorized emergency vehicle" shall mean fire department or fire patrol vehicles, police vehicles and such ambulances and emergency vehicles of the city departments or public service corporations as are so designated or authorized by the chief of police.

(2) "Bicycle" shall mean every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than twenty (20) inches in diameter.¹

(3) "Business district" shall mean the territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.

(4) "Commercial vehicle" shall mean every vehicle designed, maintained or used primarily for the transportation of property.

(5) "Controlled-access highway" shall mean every highway, street or roadway in respect to which owners or occupants of, abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

(6) "Crosswalk" shall mean:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(7) "Curb loading zone" shall mean a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(8) "Driver" shall mean any person who drives or is in actual physical control of a vehicle.

(9) "Freight curb loading zone" shall mean a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

¹State law references

Adoption and enforcement of traffic laws by municipalities: Tennessee Code Annotated, § 55-10-307, et seq.

Motor and other vehicles: Tennessee Code Annotated, § 55-1-101, et seq.
Rules of the Road: Tennessee Code Annotated, § 55-8-101, et seq.

(10) "Highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel. The terms "street" and "highway" are synonymous and interchangeable.

(11) "Intersection" shall mean:

(a) The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(12) "Laned roadway" shall mean a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(13) "Motorcycle" shall mean any 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.

(14) "Motor-driven cycle" shall mean any motorcycle, including any motor scooter, with a motor which produces not to exceed five (5) brake horsepower and every bicycle with a motor attached.

(15) "Motor vehicle" shall mean any vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(16) "Official time standard" shall mean, whenever certain hours are designated in this chapter, standard time or daylight-saving time, as may be in current use in the city.

(17) "Official traffic-control devices" shall mean all signs, signals, markings and devices not inconsistent with this chapter or state law, placed or erected by authority of a public body official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(18) "Park" or "parking" shall mean, when prohibited, the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

(19) "Passenger curb loading zone" shall mean a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(20) "Pedestrian" shall mean any person afoot.

(21) "Police officer" shall mean any officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(22) "Private road or driveway" shall mean any way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(23) "Railroad" shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(24) "Railroad train" shall mean a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

(25) "Residential district" shall mean the territory contiguous to and including a highway not comprising a business district, when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences.

(26) "Right-of-way" shall mean the privilege of the immediate use of the roadway.

(27) "Roadway" shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term "roadway" shall refer to any such roadway separately but not all such roadways collectively.

(28) "Safety zone" shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(29) "Sidewalk" shall mean that portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(30) "Stand" or "standing" shall mean, when prohibited, the halting of a vehicle, whether occupied or not, other than for the purpose of and while actually engaged in receiving or discharging passengers.

(31) "Stop" shall mean, when required, the complete cessation from movement.

(32) "Stop" or "stopping" shall mean, when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(33) "Street or highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel. The terms "street" and "highway" are synonymous and interchangeable.

(34) "Through highway" shall mean any highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the through highway in obedience to either a stop sign or a yield sign.

(35) "Traffic" shall mean pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together while using any highway for the purposes of travel.

(36) "Traffic-control signal" shall mean any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(37) "Traffic division" shall mean the traffic division of the police department of the city or, in the event a traffic division is not established, then the term shall be deemed to refer to the police department of the city.

(38) "Vehicle" shall mean any device in, upon or by which, any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (1973 Code, § 11-1)

15-102. Required obedience to this chapter. It shall be unlawful for any person to do any act forbidden or to fail to perform any act required in this chapter.¹ (1973 Code, § 11-2)

15-103. Application of this chapter to public employees. The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, any state or any political subdivision thereof, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute. (1973 Code, § 11-2)

15-104. Application of this chapter to persons propelling pushcarts or riding animals. Each person propelling any pushcart or riding an animal upon a roadway or each person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application. (1973 Code, § 11-4)

15-105. Use of coasters, roller skates and skateboards and similar devices restricted. (1) No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and, when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by this chapter.

¹State law reference

Required obedience to state traffic laws: Tennessee Code Annotated, § 55-8-103.

(2) Skateboard use shall be restricted to the designated skateboard park, private driveways (with owner's permission), and private parking lots which have a sign posted "Skateboarding Allowed."

(3) Skateboarding is prohibited on all city sidewalks, city streets, city parks, and city parking lots or other city property other than the skateboard park on private parking lots not displaying a "Skateboarding Allowed" sign.

(4) Skateboarders using the skateboard park must be registered users with the park and be in compliance with the park and recreation rules and ordinances, safety rules, safety equipment, liability release consent forms and other rules governing skateboard park use. All patrons using the skateboard park shall wear their safety helmets at all times while on the park. The safety helmet shall display the park and recreation department issued registration number and seal on the helmet to readily identify them as a registered skateboard park user. Helmets shall not be loaned to non-registered users.

(5) All liability from skateboard use on private property rests with the private property owner.

(6) Violators of the provisions of this section of code, including the skateboard park and recreation rules ordinance referenced who are over the age of eighteen (18) shall be fined twenty-five dollars (\$25.00) per offense. In addition, if the violation occurred on the skateboard park facility, they may also lose skateboard park privileges as determined by the park and recreation director.

(7) Violators of the provisions of this section of code, including the skateboard park and recreation rules ordinance referenced who are under the age of eighteen (18) shall be cited to juvenile court. In addition, if the violation occurred on the skateboard park facility, they must also lose skateboard park privileges as determined by the park and recreation director. (1973 Code, § 11-5, as amended by Ord. #2006-14, Dec. 2006)

15-106. Play streets. (1) The city traffic engineer shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the play street.

(2) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon the street or a portion thereof except the driving of vehicles having business or whose residences are within such closed area and then, the driver shall exercise the greatest care in driving upon a play street or portion thereof. (1973 Code, § 11-6)

15-107. Boarding or alighting from vehicles. No person shall board or alight from any vehicle while such vehicle is in motion. (1973 Code, § 11-7)

15-108. Unlawful riding. No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This

provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise. (1973 Code, § 11-8)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION

- 15-201. City traffic engineer.
- 15-202. Establishment of through intersections.
- 15-203. Establishment of safety lanes and crosswalks.
- 15-204. Establishment and designation of one-way streets.
- 15-205. Authority to restrict direction of movement on streets during certain periods.
- 15-206. Establishment of traffic lanes; observance.
- 15-207. Traffic commission.
- 15-208. Emergency and experimental regulations.
- 15-209. Authority of police and fire department officials.
- 15-210. Obedience to police and fire department officials.

15-201. City traffic engineer. (1) The office of city traffic engineer is hereby established. The chief of police shall, in the absence of a traffic engineer, serve as city traffic engineer in addition to his other functions and shall exercise the powers and duties with respect to traffic as provided in this chapter.

(2) It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the streets and highways of the city and to cooperate with other city officials in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by this code or other ordinances of the city. (1973 Code, § 11-19)

15-202. Establishment of through intersection. The city traffic engineer shall have the authority to establish through streets and to designate those streets and intersections where stop or yield signs shall be placed. (1973 Code, § 11-20)

15-203. Establishment of safety lanes and crosswalks. The city traffic engineer is authorized:

(1) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway and at such other places as he may deem necessary;

(2) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (1973 Code, § 11-21)

15-204. Establishment and designation of one-way streets.

Whenever this code or any ordinance of this city designates any one-way street or alley, the traffic engineer shall place and maintain signs giving notice thereof and no such provision shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (1973 Code, § 11-22)

15-205. Authority to restrict direction of movement on streets during certain periods.

(1) The traffic engineer is authorized to determine and designate streets, parts of streets or specific lanes thereon, upon which vehicular traffic shall proceed in one (1) direction during one (1) period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

(2) It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices so placed in accordance with subsection (1). (1973 Code, § 11-23)

15-206. Establishment of traffic lanes; observance. (1) The city traffic engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(2) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.¹ (1973 Code, § 11-24)

15-207. Traffic commission. (1) There is hereby established a traffic commission to serve without compensation, consisting of the city traffic engineer, the chief of police, the city attorney and such other city officers and representatives of unofficial bodies as may be determined and appointed by the mayor. The chairman of the commission shall be appointed by the mayor and may be removed by him.

(2) It shall be the duty of the traffic commission and to this end it shall have the authority within the limits of the funds at its disposal, to coordinate traffic activities, to carry on educational activities in traffic matters, to supervise the preparation and publication of traffic reports, to receive complaints having

¹State law reference

Driving on roadways laned for traffic: Tennessee Code Annotated, § 55-8-123.

to do with traffic matters and to recommend to the legislative body of the city and to the city traffic engineer, the chief of police and other city officials, ways and means for improving traffic conditions and the administration and enforcement of traffic regulations. (1973 Code, § 11-25)

15-208. Emergency and experimental regulations. (1) The chief of police by and with the approval of the city traffic engineer is empowered to make regulations necessary to make effective the provisions of the traffic laws of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No temporary or experimental regulations shall remain in effect for more than ninety (90) days.

(2) The city traffic engineer may test traffic-control devices under actual conditions of traffic. (1973 Code, § 11-26)

15-209. Authority of police and fire department officials. (1) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police, to enforce all provisions of this chapter and all of the state vehicle laws applicable to street traffic in the city.

(2) Officers of the police department or such officers as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; however, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of this chapter.

(3) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing, traffic thereat or in the immediate vicinity. (1973 Code, § 11-27)

15-210. Obedience to police and fire department officials. No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official. (1973 Code, § 11-28)

CHAPTER 3

TRAFFIC DIVISION

SECTION

- 15-301. Authority to establish; supervision.
- 15-302. Duties generally.
- 15-303. Records of traffic violations.
- 15-304. Investigation of accidents.
- 15-305. Traffic accident studies.
- 15-306. Traffic accident reports.
- 15-307. Drivers' files to be maintained.
- 15-308. Annual traffic-safety report.
- 15-309. Designation of method of identifying funeral processions.

15-301. Authority to establish; supervision. There may be established in the police department of the city, a traffic division to be under the control of an officer of police appointed by and directly responsible to the chief of police. (1973 Code, § 11-34)

15-302. Duties generally. It shall be the duty of the traffic division, with such aid as may be rendered by other members of the police department, to enforce the provisions of this chapter and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations, to investigate accidents and to cooperate with the city traffic engineer and any other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions and to carry out those duties specially imposed upon it by this chapter. (1973 Code, § 11-35)

15-303. Records of traffic violations. (1) The police department or the traffic division thereof shall keep a record of all violations of the traffic laws of the city or of the state vehicle laws for which any person has been charged, together with a record of the final disposition of all alleged offenses. The record shall be so maintained as to show all types of violations and the total of each. The record shall accumulate during at least a five (5) year period and from that time on the record shall be maintained complete for at least the most recent five (5) year period.

(2) All forms for records of violations and notices of violations shall be serially numbered. For each month and year, a written record shall be kept available to the public showing the disposal of all such forms.

(3) All records and reports required by this section shall be public records. (1973 Code, § 11-36)

15-304. Investigation of accidents. It shall be the duty of the traffic division, assisted by other police officers, to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents. (1973 Code, § 11-37)

15-305. Traffic accident studies. Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures. (1973 Code, § 11-38)

15-306. Traffic accident reports. The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. The reports shall be available for the use and information of the city traffic engineer. (1973 Code, § 11-39)

15-307. Drivers' files to be maintained. (1) The police department or the traffic division thereof shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

(2) The traffic division shall study the cases of all the drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, shall attempt to discover the reasons therefor and shall take whatever steps are lawful and reasonable to prevent the violations or to have the licenses of such persons suspended or revoked.

(3) Records kept pursuant to this section shall accumulate during at least a five (5) year period and from that time on, such records shall be maintained complete for at least the most recent five (5) year period. (1973 Code, § 11-40)

15-308. Annual traffic-safety report. The traffic division shall annually prepare a traffic report which shall be filed with the mayor. The report shall contain information on traffic matters in this city as follows:

(1) The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent traffic accident data;

(2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police;

(3) The plans and recommendations of the traffic division for future traffic safety activities. (1973 Code, § 11-41)

15-309. Designation of method of identifying funeral processions. The traffic division shall designate a type of pennant or other identifying

insignia to be displayed upon, or other method to be employed, to identify the vehicles in funeral processions. (1973 Code, § 11-42)

CHAPTER 4

OFFICIAL TRAFFIC-CONTROL DEVICES

SECTION

- 15-401. Authority of city traffic engineer to install traffic-control devices.
- 15-402. Standards.
- 15-403. When traffic signs required for enforcement purposes.
- 15-404. Obedience required.
- 15-405. Traffic-control signal legend.
- 15-406. Pedestrian-control signals.
- 15-407. Flashing signals.
- 15-408. Display of unauthorized signs, signals or markings.
- 15-409. Interference with official traffic-control devices or railroad signs or signals.

15-401. Authority of city traffic engineer to install traffic-control devices. The city traffic engineer shall place and maintain traffic-control signs, signals and devices when and as required by this chapter to make effective the provisions of this chapter and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic laws of this city or under state law or to guide or warn traffic. (1973 Code, § 11-48)

15-402. Standards. All traffic-control devices and signals shall be in conformity with regulations for such devices and signals as promulgated by the state. (1973 Code, § 11-49)

15-403. When traffic signs required for enforcement purposes. No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this chapter does not state that signs are required, such section shall be effective even though no signs are erected or in place. (1973 Code, § 11-50)

15-404. Obedience required. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto and placed in accordance with the provisions of this chapter unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. (1973 Code, § 11-51)

15-405. Traffic-control signal legend. (1) Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or

"Stop" or exhibiting different colored lights successively one at a time or with arrows, the following colors only shall be used and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green alone or "Go": (i) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at the place prohibits either turn. 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 the signal is exhibited.

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

(b) Steady yellow alone: (i) 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.

(ii) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(c) Steady red alone, or "Stop": (i) 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.

(ii) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Steady red with green arrow: (i) 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.

(ii) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(2) In event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal. (1973 Code, § 11-52)

15-406. Pedestrian-control signals. Whenever special pedestrian-control signals exhibiting the words "Walk," "Wait" or "Don't Walk" are in place, the signals shall indicate as follows:

(1) "Walk." Pedestrians facing such a signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the driver of any vehicle.

(2) "Wait" or "Don't Walk." No pedestrian shall start to cross the roadway in the direction of such a signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the "Wait" signal is showing. (1973 Code, § 11-53)

15-407. Flashing signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with rapid 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 rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past the 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 as set forth in § 15-1108. (1973 Code, § 11-54)

15-408. Display of unauthorized signs, signals or markings.

(1) No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be, or is an imitation of, or resembles an official traffic-control device or railroad sign or signal or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of , any official traffic-control device or any railroad sign or signal.

(2) No person shall place or maintain, nor shall any public authority permit, upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control signs.

(4) Each sign, signal, or marking prohibited by this section is hereby declared to be a public nuisance and the city traffic engineer is empowered to

remove the nuisance or cause it to be removed without notice. (1973 Code, § 11-55)

15-409. Interference with official traffic-control devices or railroad signs or signals. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof. (1973 Code, § 11-56)

CHAPTER 5**ACCIDENTS**¹**SECTION**

- 15-501. Immediate notice of accident.
- 15-502. Written report of accident.
- 15-503. When driver unable to report.
- 15-504. Garages to report.
- 15-505. Public inspection of reports relating to accidents.

15-501. Immediate notice of accident. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of fifty dollars (\$50.00) or more shall immediately, by the quickest means of communication, give notice of the accident to the police department if the accident occurs within the city. (1973 Code, § 11-62)

15-502. Written report of accident. The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any persons or total property damage to an apparent extent of fifty dollars (\$50.00) or more shall, within ten (10) days after the accident, forward a written report of the accident to the police department or a copy of any report he is required to forward to the state. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while the driver was present thereat. (1973 Code, § 11-63)

15-503. When driver unable to report. (1) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required by this division and there was another occupant in the vehicle at the time of the accident capable of doing so, the occupant, shall give or cause to be given, the notice not given by the driver.

(2) Whenever the driver is physically incapable of making a written report of an accident as required by this division and the driver is not the owner of the vehicle, then the owner of the vehicle involved in the accident shall, within ten (10) days after learning of the accident, make the report not made by the driver. (1973 Code, § 11-64)

15-504. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of

¹State law reference

Accidents: Tennessee Code Annotated, § 55-10-101, et seq.

having been involved in an accident of which a report must be made to the state or which has been struck by a bullet or otherwise apparently involved in violence, shall report to the police department within twenty-four (24) hours after the motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of the vehicle, if known. (1973 Code, § 11-65)

15-505. Public inspection of reports relating to accidents.

(1) All accident reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes or for the administration of the laws of the state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the identity of a person involved in an accident may be disclosed when such identity is not otherwise known or when such person denies his presence at the accident.

(2) All accident reports and supplemental information filed in connection with the administration of the laws of the state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted; however, such reports and supplemental information may be examined by any person named therein or by his representative designated in writing.

(3) No reports or information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the police department shall furnish, upon demand of any party to the trial or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law. (1973 Code, § 11-66)

CHAPTER 6

PROCEDURE ON ARREST

SECTION

- 15-601. Forms and records of traffic citations and arrests.
- 15-602. Procedure of police officers for the issuance of citations.
- 15-603. Disposition and records of traffic citations, warrants and complaints.
- 15-604. Unlawful cancellations of traffic citations.
- 15-605. Audit of records and reports.
- 15-606. When copy of citation shall be deemed a lawful complaint.
- 15-607. Failure to obey citation.
- 15-608. Citations on unlawfully parked vehicle.
- 15-609. Presumption in reference to illegal parking.
- 15-610. When warrant to be issued.
- 15-611. Record of traffic cases; report of convictions to state department of safety.
- 15-612. Disposition of traffic fines and forfeitures.
- 15-613. Driver's license in lieu of bail.

15-601. Forms and records of traffic citations and arrests. (1) The recorder shall provide books to include traffic citation forms for notifying alleged violators to appear and answer to charges of violating state traffic laws or the provisions of this chapter or other city traffic ordinances in the recorder's court. The books shall include serially numbered sets of citations in quadruplicate in the form prescribed and approved jointly by the mayor and the chief of police.

(2) The recorder shall issue such books to the chief of police or his duly authorized agent and shall maintain a record of each book so issued and shall require a written receipt for each such book.¹

(3) The chief of police shall be responsible for the issuance of the books to individual members of the police department. The chief of police shall require a written receipt for each book so issued and shall maintain a record of each such book and each set of citations contained therein. (1973 Code, § 11-72)

15-602. Procedure of police officers for the issuance of citations. Except when authorized or directed under state law to immediately take a person before a judge for the violation of any traffic laws, a police officer who stops a person for such a violation, other than for the purpose of giving him a warning or warning notice and does not take such person into custody under arrest, shall take the name, address, and operator's license number of the

¹State law reference

Crimes and arrest: Tennessee Code Annotated, § 55-10-201 et seq.

person, the registration number of the motor vehicle involved and such other pertinent information as may be necessary and shall issue to him, in writing on a form provided by the recorder, a traffic citation containing a notice to answer to the charge against him in the recorder's court of the city at a time at least five (5) days after the alleged violation, which time shall be specified in the citation. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release the person from custody. (1973 Code, § 11-73)

15-603. Disposition and records of traffic citations, warrants and complaints. (1) Each police officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any provision of this chapter, shall deposit the original and duplicate copy of the citation with his immediate superior officer, who shall cause the original to be delivered to the recorder's court and the duplicate copy to the central records section of the police department. The second duplicate copy of the citation shall be retained in the traffic citation book and shall be delivered by the superior officer to the recorder, together with the citation book when all the traffic citations therein have been used.

(2) Upon the filing of the original citation in the recorder's court, the citation may be disposed of only by trial in the court or by other official action of the court, including forfeiture of bail or by payment of a fine to the traffic violations bureau.

(3) The chief of police shall require the return to him of each traffic citation and all copies thereof, except that copy required to be retained in the book as provided in subsection (1) or which has been spoiled or upon which any entry has been made and has not been issued to an alleged violator.

(4) The chief of police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department, a record of the disposition of the charge by the recorder's court or the traffic violations bureau.

(5) The chief of police shall also maintain or cause to be maintained a record of all warrants issued by the recorder or by any other court on the traffic violation charges and which are delivered to the police department for service, and of the final disposition of all such warrants.

(6) It shall be unlawful and official misconduct for any member of the police department or other officer or public employee to dispose of, alter or deface a traffic citation or any copy thereof or the record of the issuance or disposition of any traffic citation, complaint or warrant, in a manner other than as required in this chapter. (1973 Code, § 11-74)

15-604. Unlawful cancellation of traffic citations. It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this chapter. (1973 Code, § 11-75)

15-605. Audit of records and reports. (1) Every record of traffic citations, complaints thereon and warrants issued therefor required in this chapter shall be audited at least quarterly by the recorder, who shall submit a report of such audit together with a summary thereof to the mayor. Such reports shall be public records.

(2) The recorder shall publish or cause to be published a quarterly summary of all traffic citations issued by members of the police department, the disposition of the complaints thereon and the issuance and disposition of all warrants issued therefor in at least one (1) local newspaper of general circulation.

(3) For the purpose of this chapter, the recorder or his duly authorized representatives shall have access at all times to all necessary records, files and papers of the recorder's court, its traffic violations bureau and the police department. (1973 Code, § 11-76)

15-606. When copy of citation shall be deemed a lawful complaint. In the event the form of citation provided under this division includes information and is sworn to as required under the general laws of the state in respect to a complaint charging commission of the offense alleged in the citation to have been committed, then the citation, when filed with a court having jurisdiction, shall be deemed to be a lawful complaint for the purpose of prosecution under this code.¹ (1973 Code, § 11-77)

15-607. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving his 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. (1973 Code, § 11-78)

15-608. Citations on unlawfully parked vehicle. (1) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this chapter or by state law, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a traffic citation, on a form provided by the recorder, for the driver to answer to the charge against him within five (5) days, during the hours and at a place specified in the citation.

(2) If a violator of the restrictions on stopping, standing or parking under the traffic laws of this state or this chapter does not appear in response to a traffic citation affixed to such motor vehicle pursuant to subsection (1) within a period of five (5) days, the recorder shall send to the owner of the motor

¹State law reference

Audit required: Tennessee Code Annotated, § 55-10-204

vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five (5) days a warrant of arrest will be issued. (1973 Code, § 11-79)

15-609. Presumption in reference to illegal parking. (1) In any prosecution charging a violation of any state law or provision of this chapter, governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of the law or provision of this chapter, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(2) The presumption prescribed in subsection (1) shall apply only when the procedure established in § 15-507 is followed. (1973 Code, § 11-80)

15-610. When warrant to be issued. In the event any person fails to comply with a traffic citation given to him or attached to a vehicle pursuant to this chapter or fails to make appearance pursuant to a summons directing an appearance in the recorder's court or the traffic violations bureau, or if any person fails or refuses to deposit bail as required within the time permitted by law, the recorder shall issue a warrant for his arrest. (1973 Code, § 11-81)

15-611. Record of traffic cases; report of convictions to state department of safety. (1) The recorder shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to his court or the traffic violations bureau and shall keep a record of every official action by the recorder's court or its traffic violations bureau in reference thereto, including, but not limited to, a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine or forfeiture resulting from every traffic complaint or citation deposited with or presented to the recorder's court or traffic violations bureau.

(2) Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on highways, the recorder shall prepare and immediately forward to the state department of safety an abstract of the record of the court covering the case in which the person was so convicted or forfeited bail, which abstract shall be certified by the recorder to be true and correct. A report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(3) The abstract required by subsection (1) must be made upon a form furnished by the state department of safety and shall include the name and address of the party charged, the number if any of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the

offense, the date of hearing, the plea, the judgment or whether bail was forfeited and the amount of the fine or forfeiture, as the case may be. (1973 Code, § 11-82)

15-612. Disposition of traffic fines and forfeitures. All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter, shall be paid into the general fund of the city.¹ (1973 Code, § 11-83)

15-613. Driver's license in lieu of bail. Whenever any person lawfully possessed of a chauffeur or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with the violation of any municipal ordinance regulation, traffic, except driving under the influence of an intoxicant or narcotic drug or leaving the scene of an accident, said person shall have the option of depositing his chauffeur's or operator license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court in answer to any such charge before said court.

All city officers and employees shall comply fully with the requirements of Tennessee Code Annotated, § 55-50-801, et seq., and any implementing orders of the Department of Safety, State of Tennessee. (Ord. #____, Jan. 1981)

¹State law reference

Disposition of fines, penalties and forfeitures for state violations:
Tennessee Code Annotated, § 55-10-303.

CHAPTER 7

TRAFFIC VIOLATIONS BUREAU

SECTION

15-701. Established.

15-702. Duties generally.

15-703. Designation of offenses within bureau's jurisdiction; fines.

15-704. When person charged may elect to appear at bureau or before court.

15-705. Records.

15-706. Procedure.

15-701. Established. A traffic violations bureau is hereby established to assist the recorder with the clerical work of traffic cases. The bureau shall be under the recorder. (1973 Code, § 11-89)

15-702. Duties generally. The following duties are hereby imposed upon the traffic violations bureau in reference to traffic offenses:

(1) It shall accept designated fines, issue receipts and represent in court such violators as are permitted and desire to plead guilty, waive court appearance and give power of attorney;

(2) It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket and notify the arresting officer and witnesses, if any, to be present;

(3) It shall keep an easily accessible record of all violations of which each person has been guilty during the preceding twelve (12) months, whether the guilt was established in court or in the traffic violations bureau. (1973 Code, § 11-90)

15-703. Designation of offenses within bureau's jurisdiction; fines. The recorder shall designate the specified offenses under this chapter or the state traffic laws in respect to which payments of fines may be accepted by the traffic violations bureau in satisfaction thereof and shall specify by suitable schedules the amount of fines for the first, second and subsequent offenses; the fines shall be within the limits declared by state law or this code or other city ordinance, the recorder shall also specify which offenses shall require an appearance before the court. (1973 Code, § 11-91)

15-704. When person charged may elect to appear at bureau or before court. (1) Any person charged with an offense for which payment of a fine may be made to the traffic violations bureau shall have the option of paying the fine within the time specified in the notice of arrest at the traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court, or

may have the option of depositing the required lawful bail and, upon a plea of not guilty, shall be entitled to a trial as authorized by law.

(2) The payment of a fine to the traffic violations bureau shall be deemed an acknowledgment of conviction of the alleged offense and the bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. (1973 Code, § 11-92)

15-705. Records. The traffic violations bureau shall keep records and submit summarized monthly reports to the mayor of all notices issued and arrests made for violations of the traffic laws of the state, the provisions of this chapter and other ordinances of the city and of all the fines collected by it or the court and of the final disposition or present status of every case of violation of law. The records shall be so maintained as to show all types of violations and the totals of each and shall be public records. (1973 Code, § 11-93)

15-706. Procedure. The traffic violations bureau shall follow such procedure as may be prescribed by this chapter or as may be required by any laws of this state. (1973 Code, § 11-94)

CHAPTER 8

OPERATION

SECTION

- 15-801. Authorized emergency vehicles.
- 15-802. Operation of vehicles on approach of authorized emergency vehicles.
- 15-803. Following fire apparatus prohibited.
- 15-804. Crossing fire hose.
- 15-805. Operation of motorcycles and motor-driven cycles.
- 15-706. Driving while under the influence of an intoxicant or drug.
- 15-807. Driving through funeral or other procession.
- 15-808. Duties of drivers in a procession.
- 15-809. Funeral processions to be identified.
- 15-810. Marked parking spaces reserved during funeral services only.
- 15-811. Vehicle not to be driven on a sidewalk.
- 15-812. Limitations on backing.
- 15-813. Clinging to vehicles.
- 15-814. Entering or exiting controlled-access roadways.
- 15-815. Driving through safety zone prohibited.
- 15-816. Restrictions upon use of streets by certain vehicles.

15-801. Authorized emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call, when in the pursuit of an actual or suspected violation of the law or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.

(2) The driver of an authorized emergency vehicle may:

- (a) Park or stand, irrespective of the provisions of this chapter;
- (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (c) Exceed the maximum speed limits so long as he does not endanger life or property.
- (d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted by this section to an authorized emergency vehicle shall apply only when the driver of the vehicle while in motion sounds such audible signal by bell, siren, or exhaust whistle as may be reasonably necessary and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric¹ conditions from a

¹State law reference

Rules of the Road: Tennessee Code Annotated, § 55-8-101.

distance of five hundred (500) feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The provisions of this section 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. (1973 Code, § 11-105)

15-802. Operation of vehicles on approach of authorized emergency vehicles. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of this chapter or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (1973 Code, § 11-106)

15-803. Following fire apparatus prohibited. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response any fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1973 Code, § 11-107)

15-804. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command. (1973 Code, § 11-108)

15-805. Operation of motorcycles and motor-driven cycles.

(1) Any person operating a motorcycle or motor-driven cycle upon the public streets of the city shall ride only upon the permanent and regular seat attached thereto. No operator shall carry any other person nor shall any other person ride on a motorcycle or motor-driven cycle unless the vehicle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if the seat is designed for two (2) persons or upon another seat firmly attached to the rear or side of the vehicle. No passenger shall be carried upon any motorcycle or motor-driven cycle unless foot rests are

provided and no passenger shall ride side saddle upon any such vehicle being operated within the city.

(2) No person under the age of sixteen (16) years shall operate any motorcycle or motor-driven cycle, within the city while any other person is a passenger thereon.

(3) No person shall operate or ride upon any motorcycle or motor-driven cycle within the city unless he is equipped with and wearing on his head a safety helmet with a secured chin strap and suspension lining, which helmet shall conform to the type and design manufactured for the use of the operators and riders of such vehicles. (1973 Code, § 11-109)

15-806. Driving while under the influence of an intoxicant or drug. (1) It shall be unlawful for any person or persons to drive or be in physical control of any automobile or other motor-driven vehicle on any of the streets or highways of the city while under the influence of an intoxicant, or while under the influence of narcotic drugs or while under the influence of drugs producing stimulating effects on the central nervous system.

(2) For the purpose of this section, drugs producing stimulating effects on the central nervous system shall include the salts of barbituric acid, also known as malonyl urea or any compound, derivatives or mixtures thereof that may be used for producing hypnotic or somnifacient effects, and includes amphetamine, desoxyephedrine or compounds or mixtures thereof, including all derivatives of phenylethylamine or any of the salts thereof, except preparations intended for use in the nose and unfit for internal use. (1973 Code, § 11-110)

15-807. Driving through funeral or other procession. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this division. This section shall not apply at intersections where traffic is controlled by traffic control signals or police officers. (1973 Code, § 11-111)

15-808. Duties of drivers in a procession. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. (1973 Code, § 11-112)

15-809. Funeral processions to be identified. A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division. (1973 Code, § 11-113)

15-810. Marked parking spaces reserved during funeral services only. (1) The marked parking spaces on the west side of Purple Heart Avenue shall be reserved for funeral use during funeral services only.

(2) Any funeral director is authorized to reserve these parking spaces by cones or signs indicating that these parking spaces are for funeral use only.

(3) Other than funeral services the parking of Purple Heart Avenue shall be restricted to parking for three (3) hours only.

(4) Any violation of the section will result in a ten dollar (\$10.00) fine and the vehicle occupying any reserved parking space may be towed at the cost of the owner of the vehicle. (Ord. #2006-5, June 2006)

15-811. Vehicle not to be driven on a sidewalk. The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. (1973 Code, § 11-114)

15-812. Limitations on backing. The driver of a vehicle shall not back the vehicle unless such movement can be made with reasonable safety and without interfering with other traffic. (1973 Code, § 11-115)

15-813. Clinging to vehicles. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach his vehicle or himself to any vehicle upon a roadway. (1973 Code, § 11-116)

15-814. Entering or exiting controlled-access roadways. No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. (1973 Code, § 11-117)

15-815. Driving through safety zone prohibited. No vehicle shall at any time be driven through or within a safety zone. (1973 Code, § 11-118)

15-816. Restrictions upon use of streets by certain vehicles.

(1) The traffic engineer is authorized to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse drawn vehicles or other nonmotorized traffic and shall erect appropriate signs giving notice thereof.

(2) When signs are so erected pursuant to subsection (1), no person shall disobey the restrictions stated on the signs. (1973 Code, § 11-119)

CHAPTER 9

SPEED LIMITS

SECTION

- 15-901. General maximum speed limit.
- 15-902. Speed limit at intersections.
- 15-903. Speed limit in school zones and near playgrounds.
- 15-904. Speed limit in congested areas.
- 15-905. Regulation of speed by traffic signals.
- 15-906. Speed limit of trains.

15-901. General maximum speed limit. (1) It shall be unlawful for any person to operate or drive a motor vehicle upon Highway 25/70 West beginning at stoplight number 3 at the intersection of Highways 25/70 and Highway 32, to the corporate limits of the City of Newport located at the intersection of Highway 25/70 and Clevenger Cut-off Road at speeds in excess of forty-five (45) mph. Sufficient signage indicating said speed limit shall be posted.

(2) It shall be unlawful for any person to operate or drive a motor vehicle upon Highway 32, commencing at stoplight 3, at the intersection of Highway 25/70 and 32 to the intersection of Highway 32 and Epley Road, at speeds in excess of forty (40) mph.

(3) It shall be unlawful for any person to operate or drive a motor vehicle upon Highway 32 and Epley Road to the corporate limits of the City of Newport, Tennessee, located at the intersection of new (current) Highway 32 and the old Highway 32 roadway, at speeds in excess of forty-five (45) mph. (Ord. #98-07-A, July 1998)

15-902. Speed limit 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 the person is driving on a through street or on one regulated by traffic-control signals or signs which stop or require traffic to yield on the intersecting streets. (1973 Code, § 11-126)

15-903. Speed limit in school zones and near play grounds. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground in the city in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by the traffic engineer. The provisions of this section are applicable to school zones where there are no playgrounds only when the children are out for recess or when the children are going to or leaving school during its opening or closing hours. (1973 Code, § 11-127)

15-904. Speed limits in congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by the traffic engineer.¹ (1973 Code, § 11-128)

15-905. Regulation of speed by traffic signals. The traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and he shall erect appropriate signs giving notice thereof. (1973 Code, § 11-129)

15-906. Speed limit of trains. It shall be unlawful for any person to operate a train, locomotive or other vehicle on the railroad tracks within the city limits of the City of Newport at a speed in excess of twenty (20) miles per hour either in an east bound direction or a west bound direction. The penalty for the violation of said ordinance shall be not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each mile per hour in excess of the prescribed limit. (Ord. #____, Jan. 1984)

¹State law reference

Establishment of speed zones: Tennessee Code Annotated, § 55-8-153.

CHAPTER 10

TURNING MOVEMENTS

SECTION

- 15-1001. Required position and method of turning at intersections.
- 15-1002. Authority to place and obedience to turning markers.
- 15-1003. Authority to restrict turns.
- 15-1004. Obedience to no-turn signs.
- 15-1005. Limitations on turning around.

15-1001. Required position and method of turning at intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

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

(2) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at the intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the 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. (1973 Code, § 11-135)

15-1002. Authority to place and obedience to turning markers.

(1) The traffic engineer is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at the intersections, and the course to be traveled as so indicated may conform to or be other than as prescribed by state law or this chapter.

(2) When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning

thereat, no driver of a vehicle shall disobey the directions of such indications. (1973 Code, § 11-136)

15-1003. Authority to restrict turns. The traffic engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or "U" turn and shall place proper signs at such intersections. The making of turns may be prohibited between certain hours of any day and permitted at other hours, in which event the hours shall be plainly indicated on the signs or the signs may be removed when the turns are permitted. (1973 Code, § 11-137)

15-1004. Obedience to no-turns signs. Whenever authorized signs are erected indicating that no right, left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such signs. (1973 Code, § 11-138)

15-1005. Limitations on turning around. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not, upon any other, street, so turn a vehicle unless the movement can be made in safety and without interfering with other traffic. (1973 Code, § 11-139)

CHAPTER 11

RIGHT-OF-WAY

SECTION

- 15-1101. Signs required at through streets.
- 15-1102. Other intersections where stop or yield may be required.
- 15-1103. Stop signs and yield signs.
- 15-1104. Duty of driver of vehicle entering stop intersection.
- 15-1105. Duty of driver of vehicle entering yield intersection.
- 15-1106. Duty upon emerging from alley, driveway or building.
- 15-1107. Stop when traffic obstructed.
- 15-1108. Obedience to signal indicating approach of train.

15-1101. Signs required at through streets. Whenever this code or any ordinance of this city designates and describes a through street, it shall be the duty of the traffic engineer to place and maintain a stop sign or, on the basis of an engineering and traffic investigation at any intersection, a yield sign, on each and every street intersecting the through street, unless traffic at the intersection is controlled at all times by traffic-control signals; however, at the intersection of two (2) through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets as may be determined by the traffic engineer upon the basis of an engineering and traffic study. (1973 Code, § 11-145)

15-1102. Other intersections where stop or yield may be required. The traffic engineer is authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine:

(1) Whether vehicles shall stop at one (1) or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at each place where a stop sign is required; or,

(2) Whether vehicles shall yield the right-of-way to vehicles on a different street at the intersection, in which event he shall cause to be erected a yield sign at each place where obedience thereto is required. (1973 Code, § 11-146)

15-1103. Stop signs and yield signs. (1) Every stop sign shall bear the word "Stop" in letters not less than eight (8) inches in height. Every yield sign shall bear the word "Yield" in letters not less than seven (7) inches in height. Every stop sign and every yield sign shall at night be rendered luminous by internal illumination or by a floodlight projected on the face of the sign, or by efficient reflecting elements in the face of the sign.

(2) Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway. (1973 Code, § 11-147)

15-1104. Duty of driver of vehicle entering stop intersection.

(1) Except when directed to proceed by a police officer or traffic-control signal, each driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(2) The driver, after having stopped, shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard, but the driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding. (1973 Code, § Code, § 11-148)

15-1105. Duty of driver of vehicle entering yield intersection.

(1) The driver of a vehicle approaching a yield sign shall, in obedience to the sign, slow down to a speed reasonable for the existing conditions or shall stop if necessary, and shall yield the right-of-way to any pedestrians legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. The driver, having so yielded, may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding; however, a driver who enters a yield intersection without stopping and has or causes a collision with a pedestrian in a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required herein. This subsection shall not relieve the drivers of other vehicles approaching the intersection at such a distance as not to constitute an immediate hazard from the duty to drive with due care to avoid a collision.

(2) The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. (1973 Code, § 11-149)

15-1106. Duty upon emerging from alley, driveway or building. The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately

prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway and shall yield the right-of-way to any pedestrian as may be necessary to avoid a collision and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway. (1973 Code, § 11-150)

15-1107. Stop when traffic obstructed. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (1973 Code, § 11-151)

15-1108. Obedience to signal indicating approach of train.

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this subsection, the driver of the vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from the distance and the railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

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

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. (1973 Code, § 11-152)

CHAPTER 12

PEDESTRIANS

SECTION

- 15-1201. Subject to traffic-control signals.
- 15-1202. Right-of-way in crosswalks.
- 15-1203. To use right half of crosswalks.
- 15-1204. Manner of crossing.
- 15-1205. When pedestrian shall yield.
- 15-1206. Prohibited crossing locations.
- 15-1207. Obedience to railroad signals.
- 15-1208. Manner of walking along roadways.
- 15-1209. Pedestrians soliciting rides or business.
- 15-1210. Drivers to exercise due care toward pedestrians.

15-1201. Subject to traffic-control signals. Pedestrians shall be subject to traffic-control signals as provided for in this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter. (1973 Code, § 11-163)

15-1202. Right-of-way in crosswalks. (1) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(3) Subsection (1) shall not apply under the conditions stated in subsection (2) of § 15-1105.

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (1973 Code, § 11-164)

15-1203. To use right half of crosswalks. Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (1973 Code, § 11-165)

15-1204. Manner of crossing. No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk. However, at intersections where traffic-control signals have traffic stopped in all directions, these

provisions shall not apply to pedestrians crossing within the area common to both intersecting roadways. (1973 Code, § 11-166)

15-1205. When pedestrian shall yield. (1) Each pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection, shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) The provisions in this section have no application under the conditions stated in this chapter where pedestrians are prohibited from crossing at certain designated places. (1973 Code, § 11-167)

15-1206. Prohibited crossing locations. (1) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(2) No pedestrian shall cross a roadway other than in a crosswalk in any business district. (1973 Code, § 11-168)

15-1207. Obedience to railroad signals. No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. (1973 Code, § 11-169)

15-1208. Manner of walking along roadways. (1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder, facing traffic which may approach from the opposite direction. (1973 Code, § 11-170)

15-1209. Pedestrians soliciting rides or business. (1) No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(2) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (1973 Code, § 11-171)

15-1210. Drivers to exercise due care toward pedestrians. Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn of his vehicle when necessary and shall

exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1973 Code, § 11-172)

CHAPTER 13

BICYCLES

SECTION

- 15-1301. Applicability of this chapter.
- 15-1302. Traffic laws apply to persons riding bicycles.
- 15-1303. Obedience to traffic-control devices.
- 15-1304. Manner of riding on bicycles.
- 15-1305. Riding on roadways and bicycle paths.
- 15-1306. Speed.
- 15-1307. Carrying articles.
- 15-1308. Parking.
- 15-1309. Riding on sidewalks.
- 15-1310. Lamps and other equipment on bicycle.
- 15-1311. Responsibility of parent or guardian.

15-1301. Applicability of this chapter. This chapter shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (1973 Code, § 11-183)

15-1302. Traffic laws apply to persons riding bicycles. Each person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter and the laws of the state declaring rules of the road applicable to vehicles, except as to special regulations in this chapter and except as to those provisions of state law and this chapter which, by their nature, can have no application. (1973 Code, § 11-184)

15-1303. Obedience to traffic-control devices. (1) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(2) Whenever authorized signs are erected indicating that no right, left or "U" turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where the person dismounts from the bicycle to make the turn, in which event the person shall then obey the regulations applicable to pedestrians. (1973 Code, § 11-185)

15-1304. Manner of riding on bicycles. (1) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (1973 Code, § 11-186)

15-1305. Riding on roadways and bicycle paths. (1) Each person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(3) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and shall not use the roadway. (1973 Code, § 11-187)

15-1306. Speed. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (1973 Code, § 11-188)

15-1307. Carrying articles. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one (1) hand upon the handlebars. (1973 Code, § 11-189)

15-1308. Parking. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic. (1973 Code, § 11-190)

15-1309. Riding on sidewalks. (1) No person shall ride a bicycle upon a sidewalk within a business district.

(2) No person fifteen (15) or more years of age shall ride a bicycle upon any sidewalk in any district.

(3) Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. (1973 Code, § 11-191)

15-1310. Lamps and other equipment on bicycle. (1) Each bicycle when in use at night shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(2) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving audible sound for a signal a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with or shall any person use upon a bicycle any siren or whistle.

(3) Each bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (1973 Code, § 11-192)

15-1311. Responsibility of parent or guardian. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter. (1973 Code, § 11-193)

CHAPTER 14

STOPPING, STANDING OR PARKING

SECTION

- 15-1401. Manner of parking generally.
- 15-1402. Signs or markings indicating angle parking.
- 15-1403. Obedience to angle parking signs or markings.
- 15-1404. Permits for loading or unloading at an angle to the curb.
- 15-1405. Lamps on parked vehicles.
- 15-1406. Locations where stopping, standing or parking prohibited.
- 15-1407. When parking signs required.
- 15-1408. Parking not to obstruct traffic.
- 15-1409. Parking in alleys.
- 15-1410. Parking for certain purposes prohibited.
- 15-1411. Parking adjacent to schools.
- 15-1412. Parking may be prohibited on narrow streets.
- 15-1413. Standing or parking on one-way streets.
- 15-1414. Standing or parking on roadways laned for traffic.
- 15-1415. Stopping, standing or parking near hazardous or congested places.
- 15-1416. Opening and closing vehicle doors.
- 15-1417. Designation of curb loading zones.
- 15-1418. Observance of curb loading zones.
- 15-1419. Designation of public carrier stops and stands.
- 15-1420. Stopping, standing and parking of buses and taxicabs regulated.
- 15-1421. Restricted use of bus and taxicab stands.
- 15-1422. Authority to impound unlawfully stopped vehicles; notice.
- 15-1423. Disabled or abandoned vehicles; removal.
- 15-1424. Handicapped parking.

15-1401. Manner of parking generally. Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb. (1973 Code, § 11-204)

15-1402. Signs or markings indicating angle parking. (1) The traffic engineer shall determine upon which streets angle parking shall be permitted and shall mark or sign the streets; however, angle parking shall not be indicated upon any federal-aid or state highway within the city unless the state department of highways and public works has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(2) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street. (1973 Code, § 11-205)

15-1403. Obedience to angle parking signs or markings. On those streets which have been signed or marked by the traffic engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by the signs or markings. (1973 Code, § 11-206)

15-1404. Permits for loading or unloading at an angle to the curb.

(1) The traffic engineer is authorized to issue special permits to allow the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of the permit. The permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such persons the privilege as therein stated and authorized in this section.

(2) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any permit issued pursuant to subsection (1). (1973 Code, § 11-207)

15-1405. Lamps on parked vehicles. (1) Whenever a vehicle is lawfully parked upon a street or highway during the hours between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon the street or highway, no lights need be displayed upon the parked vehicle.

(2) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon the highway, the vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle and the location of the lamp shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this subsection is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The provisions of this subsection shall not apply to a motor-driven cycle.

(3) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (1973 Code, § 11-208)

15-1406. Locations where stopping, standing or parking prohibited. (1) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (a) On a sidewalk;
- (b) In front of a public or private driveway;
- (c) Within an intersection;
- (d) Within fifteen (15) feet of a fire hydrant;
- (e) On a crosswalk;
- (f) Within twenty (20) feet of a crosswalk at an intersection;
- (g) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (h) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic engineer indicates a different length by signs or markings;
- (i) Within fifty (50) feet of the nearest rail of a railroad crossing;
- (j) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance.
- (k) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (l) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (m) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (n) At any place where official signs prohibit stopping.

(2) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful. (1973 Code, § 11-209)

15-1407. When parking signs required. Whenever by this code or any other ordinance of the city, any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the traffic engineer to erect appropriate signs giving notice thereof and no such regulations shall be effective unless the signs are erected and in place at the time of any alleged offense. (1973 Code, § 11-210)

15-1408. Parking not to obstruct traffic. No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic. (1973 Code, § 11-211)

15-1409. Parking in alleys. No person shall park a vehicle within an alley in such manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to an abutting property. (1973 Code, § 11-212)

15-1410. Parking for certain purposes prohibited. No person shall park a vehicle upon a roadway for the principal purpose of:

- (1) Displaying such vehicle for sale.
- (2) Washing, greasing or repairing the vehicle, except repairs necessitated by an emergency. (1973 Code, § 11-213)

15-1411. Parking adjacent to schools. (1) The traffic engineer is authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when parking would, in his opinion, interfere with traffic or create a hazardous situation.

(2) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized by subsection (1), no person shall park a vehicle in any such designated place. (1973 Code, § 11-214)

15-1412. Parking may be prohibited on narrow streets. (1) The traffic engineer is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet or upon one (1) side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

(2) When official signs prohibiting parking are erected upon narrow streets as authorized by subsection (1), no person shall park a vehicle upon any such street in violation of any such sign. (1973 Code, § 11-215)

15-1413. Standing or parking on one-way streets. The traffic engineer is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles and, when the signs are in place, no person shall stand or park a vehicle upon the left-hand side in violation of any such sign. (1973 Code, § 11-216)

15-1414. Standing or parking on roadways laned for traffic. In the event a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit such standing or parking. The traffic engineer is authorized to determine when standing or parking may be permitted upon the left-hand

side of any one-way roadway and to erect signs giving notice thereof. (1973 Code, § 11-217)

15-1415. Stopping, standing or parking near hazardous or congested places. (1) The traffic engineer is authorized to determine and designate by proper signs places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(2) When official signs are erected at hazardous or congested places as authorized by subsection (1), no person shall stop, stand or park a vehicle in any such designated place. (1973 Code, § 11-218)

15-1416. Opening and closing vehicle doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (1973 Code, § 11-219)

15-1417. Designation of curb loading zones. The traffic engineer is authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the loading zones are in effect. (1973 Code, § 11-220)

15-1418. Observance of curb loading zones. (1) Passenger curb loading zones. No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to the curb loading zone are effective and then only for a period not to exceed three (3) minutes.

(2) Freight curb loading zone. (a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to the zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes.

(b) The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone. (1973 Code, § 11-221)

15-1419. Designation of public carrier stops and stands. The traffic engineer is authorized and required to establish bus stops, bus stands, taxicab

stands and stands for other passenger, common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Each bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (1973 Code, § 11-222)

15-1420. Stopping, standing and parking of buses and taxicabs regulated. (1) The operator of a bus shall not stand or park the vehicle upon any street at any place other than a bus stand so designated as provided in this section.

(2) The operator of a bus shall not stop the vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided in this section, except in the case of an emergency.

(3) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not farther than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(4) The operator of a taxicab shall not stand or park the vehicle upon any street at any place other than in a taxicab stand so designated as provided in this section. This subsection shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. (1973 Code, § 11-223)

15-1421. Restricted use of bus and taxicab stands. No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and appropriately signed; however, the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when the stopping does not interfere with any bus or taxicab waiting to enter or about to enter the zone. (1973 Code, § 11-224)

15-1422. Authority to impound unlawfully stopped vehicles; notice. (1) Members of the police department are authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, to a garage designated or maintained by the police department or otherwise maintained by the city under the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

(c) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(2) Whenever an officer removes a vehicle from a street as authorized in subsection (1) and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the officer shall immediately give or cause to be given notice in writing to the owner of the fact of the removal and the reasons therefor and of the place to which the vehicle has been removed. In the event any vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of the garage.

(3) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in subsection (2), and in the event the vehicle is not returned to the owner within a period of three (3) days, then and in that event the officer shall immediately send or cause to be sent a written report of the removal by mail to the state department whose duty it is to register motor vehicles and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for the removal and name of the garage or place where the vehicle is stored. (1973 Code, § 11-225)

15-1423. Disabled or abandoned vehicles; removal. (1) It shall be unlawful for any person to park or leave standing any motor vehicle which has become disabled mechanically or which is not in regular use, for a period of more than five (5) days, upon any of the streets or alleys of the city.

(2) In the event any person shall violate the provisions of subsection (1), the police department is authorized and directed to cause the vehicle to be removed after giving the owner thereof five (5) days written notice by certified mail, postage prepaid, provided that the name of the owner can be learned. In the event the name of the owner cannot be found upon reasonable inquiry, then the required notice shall be waived. (1973 Code, § 11-226)

15-1424. Handicapped parking. It is hereby declared to be a misdemeanor punishable by a fine of fifty dollars (\$50.00) to park in or block access to areas designated as handicapped parking spaces within the City of Newport, Tennessee. Said areas must be clearly marked by signs or by painting on the streets that the area is reserved for handicapped persons.

Tennessee Code Annotated, § 55-21-108, is hereby incorporated in this section as if same were incorporated herein and as may be amended from time to time by the Legislature for the State of Tennessee, all as provided by § 11-101 of the Code of the City of Newport. (Ord. #___, March 1993)

CHAPTER 15

PARKING METERS

SECTION

- 15-1501. Parking meter zones established.
- 15-1502. Deposit of coins; time limits; meters to bear legend.
- 15-1503. When deposit of coins not required.
- 15-1504. Parking meter spaces.
- 15-1505. Occupancy of more than one space.
- 15-1506. Responsibility for installation and operation of meters.
- 15-1507. Unlawful parking.
- 15-1508. Use of slugs.
- 15-1509. Tampering with meters.
- 15-1510. Collection of coins.
- 15-1511. Use of revenue.
- 15-1512. Enforcement.

15-1501. Parking meter zones established. The parking of vehicles upon the following named streets or parts of streets shall be regulated by parking meters between the hours of 8:00 A.M. and 6:00 P.M. on all days except Sunday and Christmas:

(1) On the north and south sides of Broadway; beginning at Court Avenue and extending west to Woodlawn Avenue; and from Woodlawn Avenue on the north side of Broadway, to Mill Avenue.

(2) On the south side of West Main Street, beginning at Woodlawn Avenue and extending eastwardly to Court Avenue; and on the north side of East Main Street, beginning at Mims Avenue and extending eastwardly to McSween Avenue.

(3) On the east and west sides of McSween Avenue between Broadway and East Main Street.

(4) On the east and west sides of Mims Avenue, between Broadway and East Main Street; and on the west side of Mims Avenue extending from Broadway south to a point near the entrance to the Masonic Building.

(5) On the east and west sides of McMann Avenue beginning at Broadway and extending north to Main Street.

(6) On the east and west sides of Woodlawn Avenue, beginning at Broadway and extending north to Main Street. (1973 Code, § 11-232)

15-1502. Deposit of coins; time limits; meters to bear legend.

(1) No person shall park a vehicle in any parking space upon a street alongside of and next to which a parking meter has been installed, between the hours of 8:00 A.M. and 6:00 P.M. on any day except Sundays and Christmas, unless a coin or coins of United States currency of the appropriate denomination

as provided in this subsection shall have been deposited therein or shall have been previously deposited therein for an unexpired interval of time and the meter has been placed in operation. The deposit of a coin or coins of United States currency in the following denominations shall authorize lawful parking only for the periods indicated:

- (a) Upon the deposit of one (1) dime or two
(2) nickels. 120 minute
- (b) Upon the deposit of one (1) nickel. 60 minutes

(2) Each parking meter shall bear thereon a legend indicating the hours when the requirement to deposit coins therein shall apply, the value of the coins to be deposited and the limited period of time for which parking is lawfully permitted for various coins in the parking meter zone in which the meter is located. (1973 Code, § 11-233)

15-1503. When deposit of coins not required. The placing of coins in parking meters shall not be required of the owner or operator of any vehicle while actually engaged in the loading or unloading of persons therefrom, if the parking for such purpose is restricted to such length of time as is absolutely necessary therefor, nor shall it be required in the case of commercial trucks loading or unloading merchandise; however, such loading and unloading of merchandise is continuous and shall be restricted to such length of time as absolutely necessary therefor and to places of business where it is not possible to load, unload, receive or deliver merchandise at a rear entrance. Nothing in this section shall be so construed as to permit double parking at any time for any purpose whatsoever. (1973 Code, § 11-234)

15-1504. Parking meter spaces. The traffic engineer shall be responsible for having the parking space adjacent to each parking meter designated by appropriate markings upon the curb or the pavement of the street. Parking meter spaces so designated shall be of appropriate length and width so as to be accessible from the traffic lanes of the street. (1973 Code, § 11-235)

15-1505. Occupancy of more than one space. No person shall park a vehicle in any designated parking meter space during the restricted or regulated time applicable to the parking meter zone in which the parking meter is located so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the markings designating such space, except that a vehicle which is of a size too large to be parked within a single designated parking meter zone shall be permitted to occupy two (2) adjoining parking meter spaces when coins shall have been deposited in the parking meter for each space so occupied, as is required in this chapter for the parking of other vehicles in such spaces. (1973 Code, § 11-236)

15-1506. Responsibility for installation and operation of meters.

The traffic engineer shall be responsible for having all parking meters installed upon the curb immediately adjacent to the parking space regulated and for maintaining them that they shall display a signal showing lawful parking upon deposit therein of a proper coin of the United States in conformity with the requirements of this section, which said signal shall remain in evidence until the expiration of the lawful parking period, at which time it will indicate by automatic operation of a visible signal that said lawful parking period has expired. (1973 Code, § 11-237)

15-1507. Unlawful parking. It shall be unlawful during the hours between 8:00 A.M. and 6:00 P.M., except on Sundays and Christmas, for any person to park or permit a vehicle under his control to be parked in a designated parking meter space while the parking meter for the space indicates that the vehicle is illegally parked, whether the indication is the result of the failure to deposit a coin or operate the lever or other actuating device of the meter, or is the result of the automatic operation of the meter following the expiration of the authorized parking time subsequent to depositing a coin therein at the time the vehicle was parked. However, this section shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin in such meter. The fact that a vehicle is parked in a metered parking space during the hours of limited parking without the meter time signal showing permitted parking, shall be prima facie evidence that the vehicle has been parked in the space longer than the lawful parking period. It shall be unlawful for any person to cause or permit any vehicle registered in his name to be unlawfully parked as set out in this section. (1973 Code, § 11-238)

15-1508. Use of slugs. No person shall deposit or attempt to deposit in any parking meter, any slug, button or any other device or substitute for a coin of United States currency. (1973 Code, § 11-239)

15-1509. Tampering with meters. No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter. (1973 Code, § 11-240)

15-1510. Collection of coins. Coins shall be collected weekly from parking meters by such persons as the board of mayor and aldermen shall from time to time designate. For the protection of themselves and the interest of the city, the collectors shall always work in pairs. After collecting and counting the parking meter revenue, the collectors shall deposit it to the city's account in such bank as the board of mayor and aldermen shall designate. The bank deposit slip shall be immediately delivered to the recorder. The collectors shall retain duplicate deposit slips which they shall turn over to the board of mayor and aldermen at the board's next regularly scheduled meeting. It shall be

unlawful for any person other than the collectors designated by the board of mayor and aldermen to open a parking meter coin box. (1973 Code, § 11-241)

15-1511. Use of revenue. The coins required by this chapter to be deposited in parking meters are levied and assessed as fees to cover and shall be used to cover, the regulation and control of parking upon public streets; the costs of parking meters, their installation, inspection, supervision, operation, repair and maintenance; the control and use of parking spaces; for regulating the parking of vehicles in parking meter spaces; the costs of acquiring, establishing, improving, maintaining, and operating public off-street parking facilities; and for other lawful purposes. (1973 Code, § 11-242)

15-1512. Enforcement. (1) It shall be the duty of the police officers to report the following:

- (a) The serial or identifying number of each parking meter which indicates that the vehicle occupying the parking space adjacent to the parking meter is parked in violation of any of the provisions of this chapter;
- (b) The state license number of the vehicle;
- (c) The time during which such vehicle is parked in violation of any of the provisions of this chapter;
- (d) Any other facts which are necessary for a thorough understanding of the circumstances attending the violation.

(2) Each police officer shall attach to a vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of this chapter and instructing such owner or operator to report at the police headquarters of the city with regard to the violation. Each owner or operator may, within twenty-four (24) hours of the time when the notice was attached to the vehicle, pay to the recorder as penalty for and in full satisfaction for the first such violation, the sum of fifty cents (\$0.50); for the second violation, if paid within twenty-four (24) hours, the fine shall be one dollar (\$1.00); and for the third, two dollars (\$2.00). The failure of an owner or operator to make such payment within twenty-four (24) hours and, in any event, for any fourth or subsequent ticket, the owner or operator shall be subject to arrest and punishment under the penalty provisions of this municipal code. (1973 Code, § 11-243, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Parades and funeral processions regulated.
 16-102. "Vehicle" defined.
 16-103. Heavy truck traffic prohibited on certain streets.

16-101. Parades and funeral processions regulated. No funeral procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, except the forces of the United States Army or Navy, the military forces of the state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued therefor by the chief of police. (1973 Code, § 16-1)

16-102. "Vehicle" defined. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon streets, roads, highways or public thoroughfares, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. #2001-1-A, _____)

16-103. Heavy truck traffic prohibited on certain streets. (1) For the purpose of this section, a heavy truck is defined as any vehicle whose gross vehicle weight exceeds twenty-thousand (20,000) pounds (10 tons).

(2) All heavy trucks will be prohibited from all streets in the City of Newport except streets designated as state highways.

(3) The following categories are exempt from the prohibition of this section:

- (a) The operation of heavy trucks upon any street where necessary to the conduct of business at a destination point within the city

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

provided streets designated as truck routes are used until reaching the intersection nearest the destination point.

(b) The operation of heavy trucks owned or operated by the city, any contractor or materialman, while under contract to the city while engaged in the repair, maintenance, or construction of streets, street improvements, or street utilities within the city.

(c) The operation of school buses and buses used to transport persons to and from a place of worship, which run a designated route.

(d) The operation of emergency vehicles upon any street in the city.

(4) Signs posted. Signs shall be posted on the entrances to each of the streets listed in subsection (2) above indicating either by words or by appropriate symbols that heavy trucks are prohibited from traveling upon said streets.

(5) Penalty. Any violation of this section shall be punishable by a fine not to exceed five hundred dollars (\$500.00). (Ord. #2001-1-A, _____)

CHAPTER 2

EXCAVATIONS

SECTION

16-201. Permit required.

16-202. Remedies for violation of this chapter.

16-201. Permit required. No person, including any public utility, shall dig any holes or cut any pavement in the streets, sidewalks or alleys of the city without first obtaining a permit therefor from the street superintendent.

Any person receiving a permit required by this section shall repair the excavated street, sidewalk or alley in a manner satisfactory to the street superintendent or his designated agent. (1973 Code, § 16-17)

16-202. Remedies for violation of this chapter. (1) Any person failing to repair a damaged street, alley or sidewalk in a manner satisfactory to the street superintendent shall be guilty of an offense punishable by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense and each day that a person fails to satisfactorily repair the damaged property shall constitute a separate offense.

(2) In addition to the provisions of subsection (1), the person failing to restore the public way shall be liable to the city for the amount required to repair the damage to the street, alley or sidewalk. (1973 Code, § 16-18)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Container--general provisions.
- 17-105. Enclosure--solid waste receptacles.
- 17-106. Containers--portable refuse containers.
- 17-107. Container--commercial refuse containers.
- 17-108. Disturbance and unauthorized use of containers.
- 17-109. Collection--general provisions.
- 17-110. Collection fees.
- 17-111. Collection vehicles.
- 17-112. Disposal.
- 17-113. Privately owned dumpsters.

17-101. Refuse defined. Refuse shall mean and include garbage, and rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, shingles, asbestos based materials, and similar materials are expressly excluded therefrom and shall not be stored therewith. (Ord. #____, May 1992)

17-102. Premises to be kept clean. (1) All persons within the City of Newport are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter.

(2) It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of an abandoned motor vehicle, furniture, appliances, glass, building material, building rubbish, junk or similar items.

¹Municipal code reference

Property maintenance regulations: title 13.

(3) It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items listed above, including but not limited to weeds, dead trees, trash, garbage, etc., within thirty (30) days upon receiving notice from the City of Newport. For the purpose of this section an "abandoned motor vehicle" is defined as a vehicle that is in a state of disrepair and incapable of being moved under its own power.

(4) Any person failing to comply with the above provision shall be guilty of a violation of this section and shall be fined fifty dollars (\$50.00) for each day of violation. Each day's subsequent violation shall constitute a separate offense. (Ord. #____, May 1992)

17-103. Storage. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) inches in diameter and eight (8) feet in length before being deposited for collection. Leaves shall be securely tied in six (6) bushel plastic bags constructed of 1.5 mil. strength for collection. (Ord. #____, May 1992)

17-104. Containers--general provisions. (1) Each owner, occupant, or other responsible person using or occupying any building or other premises within the City of Newport where refuse accumulates or is likely to accumulate, shall provide and keep covered a maximum of three (3) refuse containers.

(2) Containers shall be maintained in good and sanitary condition. Any container not conforming to the requirements of this chapter or having ragged or sharp edges or any other likely condition to hamper or injure the person collecting the contents shall be promptly replaced by the owner after notice by the City of Newport. (Ord. #____, May 1992)

17-105. Enclosure--solid waste receptacles. (1) All property having an industrial, commercial or apartment complex dumpster shall provide an enclosure around all solid waste receptacles for the containment of waste material, which shall meet the following design standards:

(a) The height of the enclosure shall be a minimum of one (1) foot above the top of the solid waste receptacle.

(b) The width and depth of the enclosure shall be such as to provide a two (2) foot space between the solid waste receptacle and the structure enclosing it.

(c) The enclosure shall be constructed of an opaque material. Chain link fences shall have opaque strips attached.

(d) The enclosure shall be constructed with a gate which will provide sufficient access for removal of the solid waste receptacle and for removal of the solid waste from the receptacle.

(e) The enclosure shall be located on the property so as to insure sufficient access and as such that all other city codes are conformed to.

(2) A permit must be obtained from the codes administration officer prior to location of the solid waste receptacle and construction of said enclosure.

(3) No permit shall be issued by the codes administration officer without prior approval of the design by the City of Newport Sanitation Department. The sanitation department shall determine specific site requirements.

(4) All areas around and in the enclosure shall be maintained and litter free. Routine cleaning and maintenance is a must.

(5) Any violation of this section shall be punishable by a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) with each day of noncompliance constituting a separate violation. (Ord. # _____, May 1992)

17-106. Containers--portable refuse containers. (1) The following premises shall use portable refuse containers:

(a) Single family dwellings;

(b) Multi-family dwellings containing no more than two (2) units;

(c) All businesses located in the central business district (C-1 Zone) whose containers are not serviceable by mechanical means.

(d) Any residential or commercial premises, which in the opinion of the board of mayor and aldermen does not generate a sufficient amount of refuse to warrant the placement of a commercial refuse container on site, or does not have a suitable location for placement of a commercial refuse container on site.

(2) Portable refuse containers shall be constructed of strong and durable material, rodent and insect proof and not readily corrodible. Such containers shall have a capacity of not more than thirty-two (32) gallons and not less than twenty (20) gallons, and when filled, shall weigh not more than seventy-five (75) pounds. Portable refuse containers shall be equipped with tight fitting lids or covers to preclude the free access of flies and insects and to prevent the containers from collecting water during rain or snow. The lids or covers shall be kept in place at all times except when refuse is being deposited therein or removed therefrom by the collector. Where alleys are used by the refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (Ord. # _____, May 1992)

17-107. Container—commercial refuse containers. All residential, commercial, and industrial locations, excepting those set out in § 17-106, shall use commercial refuse containers. Such containers shall be of welded steel construction suitable for the storage of refuse, and shall be equipped with slots or other devices capable of being engaged by a refuse truck designed for that purpose. Commercial refuse containers shall have a maximum capacity of eight (8) cubic yards. The property owner, lessee, or the user of the container shall contact the sanitation department and make provisions to have the collection from the container on such a schedule so that refuse does not accumulate so as to overflow the confines of the container or restrict the closing of the container cover. The board of mayor and aldermen shall approve the design, location, capacity, wind and/or visual barrier, and the number of commercial refuse containers in use at each site. (Ord. #____, May 1992)

17-108. Disturbances and unauthorized use of containers. (1) No unauthorized person shall uncover, rifle, pilfer, dig into, turn over or in any other manner disturb any refuse container belonging to another. All refuse containers in use on the premises of any commercial establishment shall be used solely and only by that establishment as a receptacle for its commercial refuse. No person shall use a commercial establishment's refuse container unless specifically authorized by the commercial establishment.

(2) The city administrator shall cause to have signs printed stating that such activity is a violation of this chapter and may be punished by a fifty dollar (\$50.00) fine. Such signs to be placed on containers by the operators of the business establishment.

(3) It shall also be unlawful to deposit refuse in a public receptacle in a park, except for a refuse normally generated from picnics and similar activities carried on in the park. (Ord. #____, May 1992)

17-109. Collection—general provisions. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (Ord. #____, May 1992)

17-110. Collection fees. The following fees apply to all refuse collections provided by the City of Newport:

(1) From those premises using portable refuse containers, as set out in § 17-106, refuse shall be collected once per week, free of charge.

(2) From those premises using commercial refuse containers, the refuse from each such container shall be collected ____ times per week free of charge. Thereafter, any additional collections from such containers, whether schedule on a regular basis by the owner or as deemed necessary by the board of mayor and aldermen, shall be subject to a fee of ____ dollars _____ per

collection. For purposes of determining applicable charges, each container at each location will be considered separately. (Ord. #____, May 1992)

17-111. Collection vehicles. All refuse collection vehicles shall utilize closed beds and such coverings as will effectively prevent the scattering of refuse over the street or alleys. (Ord. #____, May 1992)

17-112. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited and subjected to a fine for each separate offense. (Ord. #____, May 1992)

17-113. Privately owned dumpsters. (1) It shall be unlawful for any individual or group of individuals to use privately owned dumpsters for the purpose of dumping trash, garbage, waste or any other kind of materials or substances without the express consent of the owners thereof where the owner or owners have posted a public notice prohibiting the public use of the dumpsters or containers by the general public. Said notice shall expressly provide that the dumpster is for the private use of the owner or owners and the public is prohibited from using it.

(2) Any violation of this section shall be punishable by a fine of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. (Ord. #94-5, March 1994)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWER USE ORDINANCE.
2. CROSS CONNECTIONS.

CHAPTER 1

SEWER USE ORDINANCE²

SECTION

- 18-101. Purpose and policy.
- 18-102. Definitions.
- 18-103. Use of and connection to public sewers.
- 18-104. Private domestic wastewater disposal.
- 18-105. Applications for service--permits.
- 18-106. Commercial and industrial pretreatment.
- 18-107. Monitoring, reports, access, and safety.
- 18-108. Discharge regulations.
- 18-109. Wastewater charges, fees, and billing.
- 18-110. Enforcement and abatement.

18-101. Purpose and policy. The sewer use ordinance sets uniform requirements for discharges into the wastewater collection system and treatment works and enables the City of Newport, Tennessee to comply with the provisions of the Federal Water Pollution Control Act Amendments of 1972, PL92-500, the Clean Water Act of 1977 and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state or federal law and to derive maximum public benefit by regulating the quality and

¹Charter references

Newport Utilities Board: § 1.18.

Sewer charges: § 1.20.

Waterworks and sewers: § 1.19.

Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

quantity of wastewater discharged into the wastewater collection system and treatment works. This ordinance provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to certain users. The main purpose of this ordinance is to prevent the introduction of pollutants into the Publicly Owned Treatment Works (hereinafter referred to as POTW) which will interfere with the operation of the POTW or contaminate the sewage sludge; and to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or into the atmosphere, or otherwise be incompatible with the treatment works. This ordinance provides guidelines for the establishment of rates and a uniform procedure in the levying of the service and improvement charges to maintain equity in the billing throughout the service area. The ordinance establishes pretreatment requirements for industrial waste before discharge into public sewers as required in title 40, part 403 of the Regulations of the Environmental Protection Agency (Federal Register, Vol. 43, No. 123) and any subsequent amendments thereof; establishes control over the contribution of wastewater which requires greater treatment expenditures than those necessary for equal volumes of normal domestic wastewater; and provides measures for the enforcement of its provisions and abatement of violations thereof. This ordinance shall supersede any other ordinances or portions thereof which are in conflict with this ordinance. (Ord. #____, Oct. 1980)

18-102. Definitions. For the purpose of this ordinance the following phrases and words shall have meaning assigned below, except in those instances where the content clearly indicates a different meaning:

(1) "Act" or "the Act" means Federal Water Pollution Control Act, also known as the Clean Water Act of 1977.

(2) "Approval authority," means the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "BOD (denoting Biochemical Oxygen Demand)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

(4) "Board." The Newport Utilities Board.

(5) "Building sewer," means the sewer conveying wastewater from the building drain to the public sewer or other place of disposal.

(6) "Categorical standards." National pretreatment standards.

(7) "City," means the City of Newport, Tennessee, a municipal corporation.

(8) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(9) "Compatible wastes," biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria; plus any additional pollutants identified in the publicly-owned treatment works NPDES permit, for which the publicly-owned treatment works is designed to treat such pollutants and in fact does remove such pollutants to a substantial degree.

(10) "Connection" shall mean any physical tie or hookup made to a sewer line owned, operated and maintained by the board.

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

(12) "Cooling water" shall mean the water used for heat exchange and discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which has not been in direct contact with any polluting material.

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

(14) "Domestic use" of the facilities of the wastewater treatment system shall be defined and limited to single family, multi-family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of domestic wastewater and used for residential purposes only.

(15) "Environmental Protection Agency" or "EPA," means the agency of the United States or where appropriate the term may also be used as a designation of the administrator or other duly authorized officials of said agency.

(16) "Extra strength wastewater" shall mean any wastewater that has any characteristic or combination of characteristics exceeding the characteristics of normal domestic wastewater and that require effort or expenditure over and above that required for treatment of normal domestic wastewater.

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

(18) "General manager." The General Manager of the Newport Utilities Board.

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

(20) "Incompatible wastes," all pollutants other than compatible wastes defined within.

(21) "Indirect discharge" means the discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the state.

(22) "Industrial user," means a source of indirect discharge which does not constitute a "discharge or pollutant" under regulation issued pursuant to section 402 of the Act.

(23) "Industrial wastes" are the liquid wastes, other than domestic wastewater resulting from processes or operations employed in industrial commercial establishments.

(24) "Interference," means inhibition or disruption of sewer treatment system processes or operations or which contribute to the violation of any requirement of the city's NPDES permit. The term includes presentation of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act or any criteria, guidelines or regulations developed pursuant to Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by POTW.

(25) "Maximum concentration," a maximum amount of a specified pollutant into the volume of water or wastewater.

(26) "National Pollutant Discharge Elimination System or NPDES permit," a permit issued to a POTW pursuant to 402 of the Act.

(27) "National pretreatment standards" or "pretreatment standards," means regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users and/or this ordinance.

(28) "Natural outlet" shall mean any point of discharge into a water course, pond, ditch, lake, stream, or other body of surface or ground water.

(29) "New source," any source, the construction of which is commenced after the publication of proposed regulations prescribed in section 307(c) categorical pretreatment standards which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of a proposal and in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(30) "Normal domestic wastewater," shall be regarded as normal for the city, if analyses show daily average concentrations of suspended solids, BOD, animal and vegetable oil and grease, and ammonia which do not exceed the limitations on wastewater strength as established herein; and if it contains only compatible pollutants as defined herein.

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

(32) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. A pH value indicates the degree of acidity or alkalinity.

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

(34) "Premises." A parcel of real estate or portion thereof including any improvements thereon which is determined by the superintendent to be a single user for purposes of receiving, using, and paying for services.

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

(36) "Publicly Owned Treatment Works" or "POTW," a treatment works as defined by section 212 of the Act, which is owned in this instance by the board. This definition includes any sewer that conveys wastewater to such a treatment works, that does not include pipes, sewers or other conveyances not connected to the facility providing treatment.

(37) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(38) "Sanitary sewer" is a sewer intended to receive domestic wastewater and industrial waste, without the admixture of surface water and stormwater.

(39) "Sanitary wastewater" shall mean wastewater discharging from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories or institutions, and free from storm and surface water.

(40) "Shall" is mandatory; "may" is permissive.

(41) "Significant industrial user" shall mean any industrial user of the board's wastewater treatment system whose flow exceeds twenty-five thousand (25,000) gallons per day or whose discharge has a significant impact on the operation and performance of the POTW.

(42) "Standard Industrial Code (SIC)," a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(43) "Storm sewer" or "storm drain" shall mean a pipe or conduit, ditch or canal which carries storm and surface waters and drainage, cooling water or other unpolluted water, but excludes wastewater.

(44) "Superintendent." The person designated by the general manager to supervise the operation of the publicly owned treatment works.

(45) "Suspended solids" shall mean solids that either float on the surface of or are in suspension in wastewater, and which are measurable as prescribed by "standard methods" and expressed in milligrams per liter.

(46) "Toxic pollutant," any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator or the Environmental Protection Agency under provisions 33 USC 1317.

(47) "Treatment works." Any devices and systems used in the storage, treatment, recycling and reclamation of domestic wastewater and industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewer collection systems, pumping, power or other equipment and appurtenances; extension, improvements, remodeling, additions and alterations thereof; elements essential to provide reliable recycle supply such as a stand-by treatment unit and clear well facilities; and any works, including land, that will be an integral part of a treatment process or is used for ultimate disposal of residues resulting from such treatment; and including combined stormwater and sanitary sewer systems.

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

(49) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the Environmental Protection Agency having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.

(50) "User," shall mean any occupied property or premise having a connection to the sewer system or having access thereto.

(51) "Waste," includes sewage and any and all other waste substances, liquid, solid, or gaseous, or radioactive, associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers or whatever nature prior to, and for purposes of, disposal.

(52) "Wastewater" shall mean the water carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with such ground, surface and storm water as may be present.

(53) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological, and radiological parameters, including volume and flow rate and such other parameters as served to define, classify or measure the contents, quantity, quality and strength of wastewater.

(54) Terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation. (Ord. # ____, Oct. 1980)

18-103. Use of and connection to public sewers. (1) Requirements.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the board, any human or animal excrement, garbage, or other objectionable waste; and it shall be unlawful to discharge to any natural outlet within the service area of the board any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this ordinance. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank cesspool, or other facility intended or used for the disposal of sewage.

(2) Availability. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities, therein, and a direct connection to the public sewer shall be made within thirty (30) days after date of official notice to do so, provided the sewer is available. The sewer should be considered available where the first floor of the building above or on ground level can be served in accordance with the board's rules and regulations and general practice. Where a sewer is available, it will be presumed that the wastewater from the premises is discharged either directly or indirectly into the sewer, and the property shall be billed for sewerage service. However, if the making of connection is delayed, the property shall be subject to such charges thirty (30) days after the sewer is accepted by the treatment works. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned. An extension of time may be granted by the general manager for cause.

(3) Connection to public sewer. (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance therefore without first obtaining a written permit from the general manager.

(b) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(c) The connection of the building sewer into the public sewer shall conform to the rules and regulations the board may establish and the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviations from the prescribed procedures and materials must be approved by the general manager before installation.

(d) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the board. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

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

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

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

(4) Inspection of connections. The sewer connection and all sewer laterals from the building to the sewer main line shall be inspected by an inspector of the board before any underground portion is covered.

(5) Use and maintenance of building sewers. Building sewers that have been previously used but have been abandoned due to the razing of the building structure may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance. All others may be sealed to the specifications of the board. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the board.

(6) Private wastewater disposal. Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this ordinance and requirements of the Cocke County Health Department.

(7) Interruption of service. The board shall not be liable for any damage resulting from failure or overflow of any sewer main, service pipes or valves, or by discontinuing the operation of its wastewater collections, treatment and disposal facilities for repair, extensions, or connections or from the accidental failure of the wastewater collection, treatment and disposal facilities

from any cause whatsoever. In cases of emergency the board shall have the right to restrict the use of its wastewater collection, treatment and disposal facilities in any reasonable manner for the protection of the board and the treatment works.

(8) Discontinuance of service and refusal to connect service. The board shall, after written notice, and allowance of a reasonable time for remedial action, have the right to discontinue service or to refuse to render service for a violation of, or a failure to comply with, this ordinance, the rules and regulations, the customer's application and agreement for service, or the payment of any obligation due to the board. Such right to discontinue service shall apply to all service received through a single tap or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant. Discontinuance of service by the board for any causes stated in this ordinance shall not release the customer from liability for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's agreement. The board shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, apartment or dwelling unit to which such service is to be furnished, is in default in the payment of any obligation to the board or has heretofore had his service disconnected because of a violation of this ordinance or the rules and regulations of the board. (Ord. # ____, Oct. 1980)

18-104. Private domestic wastewater disposal. (1) Availability. Within the service area of the board where a public sanitary sewer is available under the provisions of this ordinance, the building sewer or sewer service the premises shall be connected to a private wastewater disposal system complying with the provisions of this section.

(2) Requirements. (a) Within the service area of the board, septic tanks and disposal fields are constructed or reconstructed only in locations which have been approved by the board. The discharge from the septic tank shall be disposed of in such manner that it shall not create a nuisance on the surface of the ground, nor be permitted to discharge to any natural outlets, or pollute the underground water supply.

(b) When a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within ninety (90) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and filled with suitable material. In areas outside of the board's service area, septic tank and disposal field systems shall be subject to rules and regulations of the Coker County Health Department.

(c) Plans and specifications for all private wastewater disposal systems other than septic tanks and drainfields must be submitted to the board for review and written approval by the general manager. The type, capacity, location and layout of a private wastewater disposal system shall comply with all rules and regulations of the Department of Environment and Conservation of the State of Tennessee. Any private wastewater disposal system which discharges directly to any natural outlet shall be subject to the National Pollutant Discharge Elimination System of the federal government.

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

(b) Fees. For each permit issued under the provisions of this ordinance, an annual service charge therefore shall be paid to the board to be set as specified in § 18-109. Any such permit granted shall be for one (1) full fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder.

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

(d) Revocation of permit. Failure to comply with all the provisions of this ordinance shall be sufficient cause for the revocation of such permit by the board. The possession within the board's service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving as a septic tank or wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the board's service area. (Ord. # ____, Oct. 1980)

18-105. Applications for service--permits. (1) Domestic use and commercial use. A formal application for either original or additional service must be made at the office of the general manager and be duly approved before connection is made. The receipt by the board of a prospective customer's application for service shall not obligate the board to render the service. If the service applied for cannot be supplied in accordance with this ordinance and the board's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the board to the applicant for such service, except that conditional waivers for additional services may be granted by the general manager for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial use. (a) Application. An application for original, additional, or continuation of service must be made at the office of the general manager, and must be duly approved before connection is made. The application shall be in the prescribed form of the board and shall include to the extent reasonably available the estimated pH, temperature, volume and concentration of BOD, COD, suspended solids, grease, toxic substances and/or metals together with a drawing to approximate scale showing plan of property, water distribution system and sewer layout indicating existing and proposed pretreatment and/or equalization facilities. The receipt by the board of a prospective customer's application for service shall not obligate the board to render the service. If the service applied for cannot be supplied in accordance with this ordinance or the board's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the board to the applicant of such service.

(b) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the general manager that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the board, general manager, or superintendent as confidential shall not be transmitted to any

governmental agency or to the general public by the board, general manager, or superintendent until and unless prior and adequate notification is given to the user.

(3) Industrial discharge permit. (a) Wastewater discharge permits required. All industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first apply for a discharge permit therefore. All existing industrial users connected to or discharging to any part of the board's system must obtain a wastewater discharge permit within ninety (90) days from and after the effective date of this ordinance.

(b) Permit application. Users seeking a wastewater discharge permit shall complete and file with the general manager, an application in the form prescribed by the board, and accompanied by the applicable fee. In support of this application, the user shall submit the following information:

- (i) Name, address, and SIC number of applicant;
- (ii) Volume of wastewater to be discharged;
- (iii) Wastewater constituents and characteristics;
- (iv) Time and duration of discharge;
- (v) Average and thirty (30) minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.
- (vii) Description and quantities of all materials on the premises which are, or could be, discharged.
- (viii) Any other information as may be deemed by the superintendent to be necessary to evaluate the permit application.

The general manager will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the board may issue a wastewater discharge permit subject to terms and conditions provided herein.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions by the board. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this ordinance, and applicable state and federal regulations. Permit conditions will include the following:

- (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the system.
- (ii) The average and maximum wastewater constituents and characteristics.
- (iii) Limits on rate and time of discharge or requirements for flow regulation and equalization.

(iv) Requirements for installation of monitoring facilities, including flow monitoring and sampling equipment.

(v) Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharges.

(vi) Daily average and daily maximum of discharge rates, or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge.

(vii) Compliance schedules.

(viii) Other conditions to ensure compliance with this ordinance.

(d) Duration of permit. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than one (1) year, or may be stated to expire on a specific date. If the user is not notified by the general manager thirty (30) days prior to the expiration of the permit, the permit shall automatically be extended for six (6) months. The terms and conditions of the permit may be subject to modification and change by the board during the life of the permit, as limitations or requirements are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Transfer of a permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(f) Revocation of permit. Any user who violates the following conditions of his permit or of this ordinance, or applicable state and federal regulations, is subject to having the permit revoked. Violations subjecting a user to possible revocation of permit include, but are not limited to, the following:

(i) Intentional failure of a user to accurately report the wastewater constituents and characteristics of his discharge;

(ii) Failure of the user to report significant changes in operations or wastewater characteristics;

(iii) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;

(iv) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or

(v) Violation of conditions of the permit.

(4) Incomplete applications. The board will act only on applications containing all the information required in this section. Persons who have filed

incomplete applications will be notified by the general manger that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the general manager, the general manager shall submit the application to the board with a recommendation that it be denied and notify the applicant in writing of such action. (Ord. # ____, Oct. 1980)

18-106. Commercial and industrial pretreatment. (1) Criteria for pretreatment. Any wastewater discharge from a commercial or industrial user of the wastewater treatment system whose discharge violates the provisions set out in the prohibited wastewater discharges or the restricted wastewater discharges of this ordinance shall pretreat at the point of origin in a private wastewater treatment plant provided, maintained, and operated by the discharger.

Any commercial or industrial wastewater discharge exceeding only the limitations on wastewater strength provision of this ordinance may be pretreated at the point of origin in a private wastewater treatment plant provided, maintained, and operated by the discharger.

(2) Pretreatment facilities. (a) Design and construction. All commercial or industrial users of the wastewater treatment works who elect or are required to construct new or additional facilities for pretreatment, shall submit plans, engineering reports and studies, specifications, and other pertinent information relative to the proposed construction to the general manager for review and approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee.

Written approval of the general manager must be obtained before construction of new or additional facilities may begin. The plans, specifications, and other pertinent information submitted to the board for approval will be retained as file material for future reference with one approved copy returned to the user.

(b) Compliance schedule. In the event new additional pretreatment facilities for existing sources are required under the provisions of this ordinance, the users shall have two (2) years within which to install and place such facilities into operation but during said two (2) year period, shall submit written progress reports to the general manager not less often than each six (6) months. In the event users are making a good faith effort to comply but are prevented from compliance due to the complexities of a given situation or other circumstances beyond the user's control, this time may be extended by the general manager for a period of time not exceeding the time limits imposed by federal pretreatment regulations.

(c) **Inspection of facilities.** A permit for the operation of a new or existing pretreatment or equalization system shall not become effective until the installation is completed to the satisfaction of the general manager and written approval for operation is issued to the owner by the general manager. The general manager or his representative shall be allowed to inspect the work at any state of construction, and in any event, the applicant for the permit shall notify the general manager when the work is ready for final inspection. In addition, the general manager or his representative shall be allowed to make periodic inspections of the facilities in operation as he deems necessary.

The general manager or his representative may inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the general manager or his representatives ready access at all reasonable times to parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The general manager shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. If the user is found to be in violation of his discharge permit, then such user shall be financially responsible and shall pay for any and all damages, including sampling and analytical costs.

(d) **Maintenance of facilities.** It shall be the responsibility of the owner to maintain all wastewater treatment or equalization facilities in good working order at all times. The board must be notified in writing when pretreatment facilities will not be or are not operative by reason of equipment malfunction, emergency or routine maintenance, or any reason whatever. It shall be the responsibility of the owner to repair and maintain all pretreatment facilities on a high priority basis. (Ord. # ____, Oct. 1980)

18-107. Monitoring, reports, access, and safety. (1) Monitoring facilities. All users who propose to discharge wastewater with constituents and characteristics different from normal domestic wastewater shall be required to install a monitoring facility. Monitoring facility shall be a manhole or other suitable facility approved by the general manager.

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

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

shall be provided and installed at the user's expense. However, such sampling and metering equipment shall be required only after sampling and metering by the general manager establishes the existence of significant variations in concentrations or constituents of the user's discharge. Monitoring facility operation maintenance, sampling, and testing performed by the general manager shall be at the user's expense. Wastewater samples will be made available to the industry if requested.

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

If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for the board's personnel.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the board's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the general manager, an existing user requires monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by the general manager.

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

The general manager may impose mass limitations on industrial users who are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by the above paragraph shall indicate mass of pollutants regulated by pretreatment standards in the effluent of the industrial user.

The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration of production and mass limits where requested by the general

manager of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the Environmental Protection Agency under the provisions of section 304(h) of the Act [33 USC 1314 (h)] and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency, or the board.

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

- (a) The date, exact place, method, and time of sampling and the names of persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the general manager, or his representative, Director of the Division of Water Quality Control Tennessee Department of Environment and Conservation, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the general manager, the director, or the Environmental Protection Agency.

(4) Entry on private property. The general manager or his representative bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance. The general manager or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industrial beyond that point having a direct bearing on the kind and sources of discharge to the sewers or waterways or facilities for waste treatment.

(5) Safety. While performing the necessary work on private properties, the general manager or his representative shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the board's employees and the board shall indemnify the company against loss or damage to its property by the board's employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(6) Easement. The general manager or his representative bearing proper credentials and identification shall be permitted to enter all private properties through which the board holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of the portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. #___, Oct. 1980)

18-108. Discharge regulations. (1) Applicability. All users of the facilities of the POTW shall comply with the board's regulations and restrictions before discharging or causing to be discharged any wastewater to the public sewer system. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods."

(2) Prohibited wastewater discharges. No person shall discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system any wastewater which contains the following:

(a) Any water or wastes having explosive properties, containing toxic or poisonous substances, or noxious or malodorous gas, which either singly or by interaction with other wastes is capable of causing an obstruction, or which may in any other way cause any interference with the proper operation of the POTW.

(b) Any polluted water including, but not limited to, water from cooling systems or of stormwater origin, which will increase the hydraulic load of the treatment system.

(c) Wastes with objectionable color not removable by the treatment process.

(d) Oil and grease if concentration and dispersion results in separation and adherence to sewer structures and appurtenances in excess of normal domestic wastewater.

(e) Heat in amounts which will inhibit biological activity to the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 40° Centigrade (104° Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 65.5° Centigrade (150° Fahrenheit).

(f) Any waters or wastes having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of POTW.

(g) No person shall discharge or permit to be discharged any radioactive waste into a public sewer except:

(i) When the person is authorized to use radioactive materials by the Tennessee Department of Environment and Conservation or the Nuclear Regulatory Commission;

(ii) When the waste is discharged in strict conformity with applicable laws and regulations of the aforementioned agencies, or any other agency having jurisdiction; and

(iii) When a copy of permits received from said regulatory agencies having been filed with the general manager.

(h) Wastewater at a flow rate or containing such concentration or quantities of pollutants that exceeds for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation and that would cause a treatment process upset and subsequent loss of treatment efficiency.

(i) Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half ($\frac{1}{2}$) inch in any dimension.

(j) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which cause injury to the POTW, including waxy or other materials which tend to coat and clog a sewer line or other appurtenances thereto.

(3) Restricted wastewater discharges. Standards for restricted wastewater discharges shall be adopted by the board which will enable it to comply with the Act and its amendments. As a minimum, pretreatment standards shall be adopted for the parameters listed in the following table.

No person or user shall discharge wastewater which exceeds the pretreatment standards for restricted discharges established by the board, unless an exception is permitted as provided by this ordinance. Dilution of any wastewater discharge for the purpose of satisfying the requirements of the board shall be considered in violation of this ordinance.

Parameter

Antimony

Arsenic

Cadmium

Chromium (total)

Copper

Cyanide

Lead

Mercury

Nickle

Selenium

Silver
 Surfactants, as MBAS
 Zinc
 Phenols

(4) Protection of treatment plant influent. The general manager shall initiate technical studies to establish protection criteria for the POTW influent, in terms of maximum allowable concentrations of the parameters listed in the table (and other parameters applicable) to prevent interference with and inhibition of the treatment process including sludge disposal and to prevent violation of the NPDES permit for the POTW.

A schedule of protection criteria for the parameters listed shall be adopted by the board. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this ordinance. In the event that the influent at the POTW reaches or exceeds protection criteria established by the board, the general manager shall initiate additional technical studies to determine the cause of the POTW influent violation and shall recommend to the board the necessary remedial measures; including, but not limited to, recommending the establishment of new or revised pretreatment standards for these parameters. The general manager shall also recommend changes to the board to any of these criteria in the event that: the POTW effluent standards are changed, there are changes to any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Parameter
 Boron
 Cadmium
 Chromium (total)
 Chromium (hexavalent)
 Copper
 Cyanide
 Lead
 Nickel
 Zinc

(5) Right to establish more restrictive criteria. No statement in this ordinance is intended or may be construed to prohibit the board from establishing specific wastewater discharge criteria to be more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to

municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(6) Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the board and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the board and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unfit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit.

(7) Limitations on wastewater strength. It is the intent of this ordinance to regulate all discharges of compatible wastes in excess of normal domestic wastewater, the major parameters as determined by twenty-four (24) hour composite samples, shall be as follows:

Pollutant	Daily Average Concentration (mg/l)
BOD	250
SS	250
Oil and Grease	100
Ammonia	30

(8) Exceptions to discharge criteria. (a) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-108(2) and (3) of this chapter. Exceptions can be granted according to the following guidelines subject to the appeals procedure provided in § 18-110.

The general manager shall allow applications for temporary exception at any time. However, the general manager shall not accept an application that the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the board.

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

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

The user requesting the exception must demonstrate to the general manager that the user is making a concentrated and serious effort to maintain his standards of operation control, housekeeping levels, etc. so

that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if exempted, will not:

(i) Interfere with the normal collection and operation of the wastewater treatment system;

(ii) Limit the sludge management alternatives available and increase the chance of providing adequate sludge management.

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

The user must show that the exception, if granted, will cause the discharger to violate its in-force federal pretreatment standards unless exception is granted under the provisions of the applicable pretreatment regulations.

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

At such time that the levels of pollutants must be reduced because of violations of any of the provisions in this section, the following methods shall be used to reduce the discharge levels: All users shall be required to reduce their discharge levels by a sufficient amount to meet the standards being violated. Users shall be required to reduce their discharge levels proportion to their contribution to the system.

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

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

(i) Whether or not the applicant is subject to a National Pretreatment Standard containing discharge limitations more

stringent than those in § 18-108 of this chapter and grant an exception only if such exception may be granted within limitations of applicable federal regulations.

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

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

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

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

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

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

(9) Relaxation of discharge criteria. The general manager shall, to the maximum extent feasible, recommend to the board a relaxation of criteria established in this ordinance in the event that the POTW effluent standards are changed or if the POTW removals are such that a relaxation will not cause violation of the effluent standards.

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

prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the general manager for review, and shall be approved by the general manager before construction of the facility.

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

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

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

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

(c) Notice to employees. In order that employees of users be informed of the board's requirements, users shall make available to their employees copies of this ordinance together with such other wastewater information and notices which may be furnished by the board from time to time directed toward more effective pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this ordinance.

(d) Preventive measures. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated. (Ord. # ____, Oct. 1980)

18-109. Wastewater charges, fees, and billing. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the board which will enable it to comply with the revenue requirements of the Act and its amendments. Charges and fees shall be determined in a manner consistent with regulations of the Act and policies of the board to insure that sufficient revenues are collected to defray the board's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient

funds for capital outlay, bond service costs, capital improvements, depreciation, and equitable industrial cost recovery of EPA administered federal grants.

(2) Classification of users. All users are to be classified by the board either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics, to provide an effective means of source control, and to establish a system of charges and fees which will insure an equitable recovery of the board's cost.

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

- (a) User classification charges;
- (b) Fees for monitoring, maintenance, and analysis;
- (c) Fees for permits;
- (d) Surcharge fees;
- (e) Industrial cost recovery charge;
- (f) Local capital recovery charges;
- (g) Discharge permit fees.

(4) Charges and billing. (a) Wastewater service charge. The wastewater service charge for normal domestic wastewater is based on the water discharged to the POTW as measured by the public water supply meter, or meters, and/or by any supplementary meter, or meters, necessary to measure the amount of water discharged. The basic wastewater service charge shall be determined upon the metered flow and the schedule of charges and fees adopted by the board.

(b) Extra strength surcharge. Users who discharge or cause to be discharged extra strength wastes to the sewer system in accordance with the provisions of this ordinance without appropriate permit therefore will be subject to surcharges to compensate the POTW for above normal operating and maintenance expense incurred in treating and disposing of the discharge with credit for any reduced operating cost as a result of the constituents or characteristics discharged by the user. The surcharge for extra strength wastes will be assessed in accordance with the schedule of charges and fees adopted by the board. Users who discharge extra strength wastes without a permit shall be subject to the provisions of § 18-112(8) of this chapter.

(c) Sampling, flow monitoring, and analysis. Users who are required by the general manager to have sampling and fee monitoring devices installed (temporary or permanent) shall, if applicable be charged to compensate the board for operating and maintaining equipment and for performing analytical tests on their discharge.

(d) Industrial cost recovery charges. All nongovernmental users identified in the Standard Industrial Classification Manual, 1972, Office

of Management and Budget, as amended and supplemented under Division A (agriculture, forestry and fishing), Division B (mining), Division D (manufacturing), Division E (transportation, communications, electric gas, and sanitary services), and Division I (services), which discharge to the sanitary sewers wastes other than domestic wastes or wastes from sanitary conveniences shall be assessed a federal industrial cost recovery charge in connection with federally funded projects as required in title 40, part 35 of the U.S. EPA regulations, based on a schedule of charges and fees which shall be adopted by the board. The federal ICR charge will not be assessed until required by applicable federal regulations.

(e) Local capital recovery charges. All such users identified in subsection (4)(d) of this section shall also be assessed a local capital recovery charge in connection with both federally funded and non-federally funded projects. The local capital recovery charges shall be based on a schedule of charges and fees which shall be adopted by the board to recover the portion of the project capital cost applicable to each such user.

(f) Billing. The billing for normal domestic wastewater shall consist of a minimum wastewater service charge with rates as specified by the board, subject to net and gross rates. Wastewater discharges with above normal strength characteristics will be subject to an extra strength surcharge in addition the wastewater service charge. In addition, certain industrial users will be liable for payment of industrial cost recovery, sampling, flow monitoring, and analysis charges, and other charges as applicable.

(i) Minimum charges. The minimum charge for sewer service will be stated in the schedule of rates and charges as established by the board.

(ii) Estimated billing. If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter the board reserves the right to render an estimated bill based on the best information available. The board also reserves the right to require metering of any water discharged into the sewer system.

(iii) Supplemental water supply. In the event that any customer uses water from a source other than the public water supply and discharges the wastewater into the POTW, the customer must install or have installed according to the board's specifications and maintain a supplementary meter to measure the amount of water so used and the amounts so used shall be computed in determining the wastewater service charge.

(iv) Adjustments and correction of errors. Adjustments to billing for over or under registration of meters, for leaks, for the

determination of water use by consumers when meters have been inoperative, for an obviously incorrect meter reading, or for other recognized and proper adjustments as are granted to water consumers by the board will be accepted by the board and such adjustments for water use shall be applied in obtaining the indicated adjusted billing of sewer charges. All other requests for adjustments of sewer charges made to the board shall be referred to the general manager who will handle such complaints. Any adjustments or decision thus authorized by the general manager shall be made to the customer affected thereby.

(v) Exemptions. Claims for exemption from the sewer service charge because of nonavailability of sewers may be made to the general manager. Exemptions from the charge will retroactive to the commencement date of the sewer service charge.

(5) Computation and assessments. The computation of and assessment of surcharges, monitoring charges, maintenance charges and testing or analysis charges shall be subject to the appeals procedure provided in this ordinance. (Ord. # ____, Oct. 1980)

18-110. Enforcement and abatement. (1) Issuance of cease and desist orders. When the general manager finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this ordinance, or the provisions of a wastewater discharge permit, the general manager shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits, requirements, or provisions to:

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

(2) Submission of time schedule. When the general manager finds that a discharge of wastewater has been taking place, in violation of prohibitions or limitations prescribed in this ordinance, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a wastewater discharge permit, the general manager shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

(3) Hearings/appeals. (a) Except in those emergency situations as provided for in subsection (9) of this section the general manager shall afford any user an opportunity for a hearing and shall provide not less

than forty-eight (48) hours notice thereof, before terminating service for any reason other than nonpayment.

(b) Any user, permit applicant, or permit holder affected by any decision, action, or determination, including cease and desist orders, made by the general manager interpreting or implementing the provisions of this ordinance or in the granting or refusing of any permit issued hereunder, a file with the general manager a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration. The general manager's decision, action, or determination shall remain in full force and effect during such period of reconsideration and during the appeal therefrom unless modified or suspended by the city.

(c) If the ruling made by the general manager is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notification of the action, file a written appeal to the city. The written appeal shall be heard within thirty (30) days from the date of filing. The board shall make a final decision on the appeal within thirty (30) days of the close of the meeting. The decision, action, or determination of the board shall remain in effect during the pendency of any appeal to the courts unless the same is modified or suspended by a court of competent jurisdiction after notice and any evidentiary hearing.

(4) Notice to user. Notice of a discharge in violation of this ordinance shall be served on the owner, user, and/or permit holder by certified mail, return receipt requested, as well as and in addition to any other means of communication that the board has available to notify the party of said violation and the need for corrective action.

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

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

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

(8) Injunction. Whenever a discharge of wastewater is in violation of the provisions of this ordinance or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, the general manager may petition the circuit or chancery court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.

(9) Termination of service. In order to effect its powers, the general manager or his representative may enter upon private property for the purpose of inspection and maintenance of sanitary and waste disposal facilities and may terminate service to property in which a violation of any rule or regulation of this ordinance is found to exist.

Prior to termination of service, however, the general manager shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be so terminated and conduct a hearing thereon as herein provided.

In the event of an emergency that, in the opinion of the general manager, threatens harm to the facilities or endangers the public health, the general manager shall notify the owner and/or tenant and immediately take action to terminate service to the property. In such cases, a hearing shall be held with the general manager on said termination within twenty-four (24) hours to allow the user an opportunity to demonstrate to the general manager that the emergency situation has been abated or corrected and that the danger to the facilities or public health no longer exists.

(10) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this ordinance, requirements or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard, shall be liable civilly. Said civil liability may be in a sum of not to exceed ten thousand dollars (\$10,000.00) for each day in which such violation occurs.

The general manager may petition the circuit or chancery court to impose, assess, and recover such sums. In determining such amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any.

(11) Penalties. Any person who shall continue any violation beyond the time limit specified by the general manager shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not more than one hundred dollars (\$100.00) for each violation. Each day in which any such violation occurs shall be deemed a separate offense, unless the fact of such violation is being appealed as herein provided.

(12) Falsifying of information. Any person or user who knowingly makes any false statements, representation, record, report, plan or other document filed with the general manager or who falsifies, tampers with or

knowingly renders inaccurate any monitoring device or method required under this ordinance, is hereby declared to be in violation of this ordinance, and subject to the civil liberties imposed under subsection (10). (Ord. #____, Oct. 1980)

CHAPTER 2

CROSS CONNECTIONS¹

SECTION

- 18-201. Definitions.
- 18-202. Standards.
- 18-203. Construction, operation, and supervision.
- 18-204. Statement required.
- 18-205. Inspections required.
- 18-206. Right of entry for inspections.
- 18-207. Correction of existing violations.
- 18-208. Use of protective devices.
- 18-209. Unpotable water to be labeled.
- 18-210. Violations.

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

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

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

¹Charter references

Newport Utilities Board: § 1.18.

Sewer charges: § 1.20.

Waterworks and sewers: § 1.19.

Municipal code references

Plumbing code: title 12.

Sewer use: title 18, chapter 1.

(6) "Public water supply." The waterworks system furnishing water to the City of Newport for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation. (Ord. #85-2, Feb. 1985)

18-202. Standards. The Newport Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #85-2, Feb. 1985)

18-203. 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 Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the general manager of the Newport Public Water Supply. (Ord. #85-2, Feb. 1985)

18-204. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the general manager a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. #85-2, Feb. 1985)

18-205. Inspections required. It shall be the duty of the general manager of the public water supply 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 reinspections, based on potential health hazards involved, shall be established by the general managers of the Newport Public Water Supply and as approved by the Tennessee Department of Environment and Conservation. (Ord. #85-2, Feb. 1985)

18-206. Right of entry for inspections. The general manager or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Newport Public Water Supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee,

or occupant of any property so served shall furnish 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. #85-2, Feb. 1985)

18-207. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with 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 general manager of the Newport Public Water Supply.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Newport Public Water Supply, 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 supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (Ord. #85-2, Feb. 1985)

18-208. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (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 of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The general manager of the Newport Public Water Supply 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 Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the general manager of the public water supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Newport Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the general manager, 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 (1) unit has been installed and the continuance of service is critical, the general manager 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 Newport Public Water Supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the general manager of the Newport Public Water Supply.

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, bypassing, or altering of 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 general manager of the public water supply. (Ord. #85-2, Feb. 1985)

18-209. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one (1) inch high located on a red background. (Ord. #85-2, Feb. 1985)

18-210. Violations. The requirements contained herein shall apply to all premises served by the Newport 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 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 Newport corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances. (Ord. #85-2, Feb. 1985, modified)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

1. PUBLIC INSTRUCTION.
2. FAIR HOUSING.
3. EMERGENCY ALARM DEVICES.
4. PARK AND RECREATION PROGRAM OPERATION.

CHAPTER 1

PUBLIC INSTRUCTION

SECTION

- 20-101. Newport Public School System created.
- 20-102. Board of education established; composition; appointment and terms of members.
- 20-103. Recorder to be secretary and treasurer of board of education.
- 20-104. Meetings of the board of education.
- 20-105. Fiscal controls.

20-101. Newport Public School System created. There is hereby established for the city, in accordance with the applicable laws of the state, a system of public schools known as the Newport Public School System. (1973 Code, § 15-1)

20-102. Board of education established; composition; appointment and terms of members. The power and authority to control and manage the public school system is hereby delegated to the Newport Board of Education. The board of education shall have five (5) members, all appointed by the board of mayor and aldermen. Each member shall receive ten dollars (\$10.00) per meeting, not to exceed fifty dollars (\$50.00) per year. The original members of the board of education having been appointed in May of 1905, one (1) for three (3) years; two (2) for two (2) years and two (2) for one (1) year; all subsequent members have been and shall continue to be appointed for three (3) year terms except when appointed to fill a vacancy. Any member appointed to fill a vacancy shall serve the unexpired term of the member he replaces. The term of one (1) or two (2) members shall expire each May, but he or they shall continue to serve until his or their successors are appointed. (1973 Code, § 15-2)

20-103. Recorder to be secretary and treasurer of board of education. The recorder shall be ex-officio the secretary and treasurer of the

board of education and shall keep a full and complete record of all its proceedings. (1973 Code, § 15-3)

20-104. Meetings of the board of education. The board of education shall hold regular quarterly meetings in the recorder's office and at its first regular meeting each year, shall elect a president. The president may call special meetings at any time he deems it necessary and or expedient. However, when a special meeting is called, each member shall be notified thereof in writing, which notice shall set out the purposes of the meeting and no other business shall be transacted at that meeting. (1973 Code, § 15-4)

20-105. Fiscal controls. The board of education shall operate within the appropriation annually made by the board of mayor and aldermen for school purposes and school funds shall be disbursed only on orders of the board of education, evidenced by vouchers signed by the recorder and countersigned by the president of the board. (1973 Code, § 15-5)

CHAPTER 2

FAIR HOUSING

SECTION

- 20-201. Title.
- 20-202. Definitions.
- 20-203. Purposes of law, construction; effect.
- 20-204. Unlawful housing practices.
- 20-205. Blockbusting.
- 20-206. Exemptions from housing provisions.
- 20-207. Provisions of enforcement.
- 20-208. Agency no defense in proceeding against real estate dealer.
- 20-209. Establishment of procedures for conciliation.
- 20-210. Findings of hearing board; nature of affirmative action.
- 20-211. Investigations, powers, records.
- 20-212. Conspiracy to violate this chapter unlawful.

20-201. Title. This chapter shall be known and may be cited as the City of Newport "Fair Housing Ordinance." (Ord. # ____, Sept. 1978)

20-202. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

(1) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(2) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(3) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, or sex, or aiding, abetting, inciting, coercing, or compelling thereof.

(4) "Hearing board" means that body of citizens duly appointed by the board of mayor and aldermen to hear, make determination, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(5) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as a home or residence of one or more individuals.

(6) "Real estate broker" or "real estate salesman" means an individual whether licensed or not who, on behalf of others, for a fee, commission, salary or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer or real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the city or county or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above. (Ord. #___, Sept. 1978)

20-203. Purposes of law, construction; effect. (1) The general purposes of this chapter are:

(a) To provide for execution within the City of Newport of the policies embodied in title VIII of the Federal Civil Rights Act of 1968 as amended.

(b) To safeguard all individuals within the city from discrimination in housing opportunities because of race, color, religion, national origin, or sex; thereby to protect their interest in personal dignity and freedom from humiliation; to secure the city against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the city.

(2) Nothing contained in this chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, national origin, or sex. (Ord. #___, Sept. 1978)

20-204. Unlawful housing practices. It is an unlawful practice for a real estate owner or operator or for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin or sex;

(2) To discriminate against an individual because of his or her race, color, religion, national origin or sex in the terms, conditions, or privileges of this sale, exchange, rental or lease of real property or in the furnishings of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent or lease real property from an individual because of his or her race, color, religion, national origin or sex;

(4) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, national origin or sex;

(5) To represent to an individual that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, national origin or sex;

(6) To print, circulate, post, or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, national origin or sex or an intent to make such a limitation, specification or discrimination;

(7) To offer, solicit, accept, use or retain a listing or real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, national origin or sex; or

(8) To otherwise deny to or withhold real property from an individual because of race, color, religion, national origin or sex. (Ord. #____, Sept. 1978)

20-205. Blockbusting. It is an unlawful practice for a real estate owner or operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion or national origin of the owners or occupants in the block, neighborhood, or areas in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in

the quality of schools in the block, neighborhood, or area in which the real property is located. (Ord. #____, Sept. 1978)

20-206. Exemptions from housing provisions. (1) Nothing in § 20-204 shall apply:

(a) To the rental of housing accommodations in a building which contains housing accommodations for not more than four (4) families living independently of each other, if the owner or member of his family resides in one (1) of the housing accommodations;

(b) To the rental of one (1) room or one (1) rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) To a landlord who refuses to rent to an unmarried male-female couple.

(2) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, or national origin.

(3) Single sex dormitory rental property shall be excluded from the provision of this act which relate to discrimination based on sex. (Ord. #____, Sept. 1978)

20-207. Provisions of enforcement. (1) The violation of any of the provisions of this chapter shall subject the violator to a civil penalty in the amount of two hundred dollars (\$200.00) to be recovered in civil action, provided that in the case of a continuing violation, the total penalty shall not exceed one thousand dollars (\$1,000.00).

(2) The city may sue in a civil act through the general court of justice for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibiting injunctions.

(3) In addition to appropriate civil and/or equitable remedies for enforcement of this chapter, a violation of this chapter shall constitute a misdemeanor punishable as provided by law. (Ord. #____, Sept. 1978)

20-208. Agency no defense in proceeding against real estate dealer. It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, real estate salesman, a financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter. (Ord. #____, Sept. 1978)

20-209. Establishment of procedures for conciliation. (1) The city shall designate an agent(s) to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation efforts may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(2) The mayor and board of aldermen shall establish a hearing board which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the board shall commence whenever the agent(s) acting on behalf of the city decides a conciliation failure has occurred and the respondent agrees to participate in the hearing board proceedings. Hearing open to the public may be initiated by the responding party at any time during the conciliation process. (Ord. # ____, Sept. 1978)

20-210. Findings of hearing board; nature of affirmative action.

(1) If the hearing board determines that the respondent has not engaged in an unlawful practice, the board shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the city attorney, and such other public officers and persons as the board deems proper.

(2) If the hearing board determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgment will carry out the purposes of this chapter. A copy of the findings shall be delivered to the respondent, the complainant, the city attorney and such other public officials, officers and persons as the board deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

(a) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;

(b) Reporting as to the manner of compliance;

(c) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing board;

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;

(e) Payment to the complainant of damages for injury caused by unlawful practice including compensation for humiliation and embarrassment, and expenses incurred by the complainant in obtaining alternative housing by the complainant as a direct result of such unlawful practice.

(4) The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this chapter. (Ord. # ____, Sept. 1978)

20-211. Investigations, powers, records. (1) In connection with an investigation of a complaint filed under this chapter, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records and documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.

(2) Every person subject to this chapter shall make, keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and prescribed in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

(3) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the hearing board for an exemption from the applications of the regulational order. If the board finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (Ord. #___, Sept. 1978)

20-212. Conspiracy to violate this chapter unlawful. It shall be unlawful practice for a person, or for two (2) or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or

(4) To resist, prevent, impede, or interfere with the enforcing agent(s), hearing board, or any of its members or representatives in the lawful performance of duty under this chapter. (Ord. #___, Sept. 1978)

CHAPTER 3

EMERGENCY ALARM DEVICES

SECTION

20-301. Definitions.

20-302. Automatic telephone dialing alarm systems.

20-303. Application requirements for an alarm permit.

20-304. Items required for an alarm system to qualify for an alarm permit.

20-305. False alarms.

20-306. Fine assessment for false alarms.

20-301. Definitions. Unless it is apparent from the context that another meaning is intended, the following words when used in this chapter shall have the meanings indicated herein:

(1) "Alarm business" means the business of any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure, or facility.

(2) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the police and/or fire department that an emergency exists or that the services of either or both of those departments are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other response upon the occurrence of any hazard or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.

(3) "Alarm user" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility or portion thereof wherein an alarm system is maintained.

(4) "Answering service" refers to a telephone answering service providing among its services the receiving on a continuous basis emergency signals from alarm systems and thereafter relaying the message to the central dispatch facility.

(5) "Automatic telephone dialing alarm system" means any alarm system which is a device which automatically or electronically transmits by telephone or telephone line connected to the central dispatch facility a recorded message or code signal indicating a need for emergency response; or a system which, upon activation, connects to an answering service whose function it is to transmit to the police and/or the fire department a need for emergency response.

(6) "Central dispatch facility" means the central communications facility of the Newport Police 911 Center which receives, routes, or otherwise handles emergency service communications traffic.

(7) "False alarm" means an alarm signal eliciting a response by the police and/or fire department when a situation requiring a response by the police and/or fire department does not in fact exist; but, this definition does not include an alarm signal caused by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. (Ord. #1994-7-B, _____)

20-302. Automatic telephone dialing alarm systems. (1) It shall be unlawful for a person, natural or corporate, to sell, offer for sale, install, maintain, lease, operate, or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the fire and/or police department.

(2) The 911 director, when he has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed or operating in violation of this code; shall, in writing, order the owner, operator, or lease to disconnect and cease operation of the system within seventy-two (72) hours of receipt of the order.

(3) Any automatic telephone dialing system installed prior to the effective date of the ordinance comprising this chapter; automatically dialing 911 shall be disconnected and cease operation.

(4) Any installation required in the 911 police center of any alarm shall be handled by the 911 board representative (Murrell Alarm Co. Morristown). (Ord. #1994-7-B, _____)

20-303. Application requirements for an alarm permit. Application for an alarm permit shall be made to the 911 director. This includes all burglar or fire alarms. The application shall include the following information:

(1) The name, address, and telephone number of the applicant's property to be serviced by the alarm, and the name, address, and telephone number of the applicant's residence if different from that of the property to be served.

(2) The name, address, and telephone number of the alarm company which will service the alarm, if any (in applicant's location).

(3) An emergency telephone number of the alarm user or his representative to allow prompt notification of alarm calls and to assist fire and/or police personnel in the inspection of the property.

(4) Such other information as the 911 director shall deem necessary. It is the applicant's responsibility to notify the 911 directors, in writing, of any and all changes in the information on file with the city regarding such permit within ten (10) days of such changes being made. (Ord. #1994-7-B, _____)

20-304. Items required for an alarm system to qualify for an alarm permit. (1) All alarm systems serving any locations within Cockey County of Newport shall terminate at the central dispatch facility of the Newport Police Department and 911 directors.

(2) All alarm systems shall have a back-up power supply that will automatically become effective in the event of power failure or outage in the primary source of electricity.

(3) All alarm systems will have a reset which silences the annunciator and which will not sound again as a result of the same event that resulted in the original activation.

(4) All alarm systems monitored by the 911 dispatcher at Newport shall pay an alarm maintenance fee to Murrell Alarm Company which is the 911 alarm maintenance company.

(5) All alarm systems installed on or after the effective date of the ordinance comprising this chapter must comply with the requirements set out in this section. (Ord. #1994-7-B, _____)

20-305. False alarms. (1) Whenever an alarm is activated thereby requiring an emergency response to the location by police and/or fire personnel, a police and/or fire officer on the scene of the activated alarm shall determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(2) If the police or fire officer at the scene of the activated alarm system determines the alarm to be false and no emergency was necessary, then said officer shall submit a report of the false alarm to the 911 director. A written notification of emergency response and determination of the response shall be mailed or delivered to the alarm user at the address noted on the permit or location where alarm was activated.

(3) The 911 director shall have the right to inspect any alarm system on the premises to which response has been made and he may cause inspection of such system to be made at any reasonable time thereafter to determine whether it is in conformity with this code.

(4) It shall be a violation of this code to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subject to the penalty provisions contained herein.

(5) There shall be a fourteen (14) day grace period provided to the alarm user during the initial installation of the alarm system. For fourteen (14) days after the permit has been issued by the 911 director the fines provided for in § 20-306 will not apply.

(6) Any alarm business, testing or servicing any alarm system, shall notify the 911 center of the location and time of said testing and servicing. The fines provided for in § 20-306 will not apply to the alarm user in prior notice of

testing or servicing has been made to the 911 center as outlined in this section.
(Ord. #1994-7-B, _____)

20-306. Fine assessment for false alarms. It is hereby found and determined that more than three (3) false alarms, within any six (6) month period, are excessive and constitute a public nuisance. The activation of four (4) or more false alarms within any six (6) month period will result in the assessment of the following fines:

(1) A service charge of twenty-five dollars (\$25.00) shall be automatically levied against the alarm upon the occurrence of the fourth (4th) false alarm;

(2) A service charge of fifty dollars (\$50.00) shall be automatically levied against the alarm user upon the occurrence of the fifth (5th) false alarm;

(3) A service charge of seventy-five dollars (\$75.00) shall be automatically levied against the alarm user upon the occurrence of the sixth (6th) false alarm;

(4) A service charge of one hundred dollars (\$100.00) shall be automatically levied against the alarm user for each false alarm in excess of six (6). All service charges levied shall be paid to Coker County 911 by the alarm user within thirty (30) days of the date of the written notice of said charges. Failure to make payment within thirty (30) days from the date of the notice shall result in disconnection of the alarm system and a discontinuance of police and fire response to alarms that may occur at the premises described in the alarm user's permit. Reconnection of the alarm system and reinstatement of police and fire emergency response service may be made upon payment of all service charges due, accompanied by a payment of a twenty-five dollar (\$25.00) reinstatement fee. (Ord. #1994-7-B, _____)

CHAPTER 4

PARK AND RECREATION PROGRAM OPERATION

SECTION

- 20-401. Purpose.
- 20-402. Staffing.
- 20-403. Parks and recreation advisory board.
- 20-404. Plan of service.
- 20-405. Definitions.
- 20-406. Hours of operation.
- 20-407. Prohibited beverages and substances.
- 20-408. Prohibited unlawful activities generally.
- 20-409. Prohibited unlawful activities--sanitation.
- 20-410. Prohibited unlawful activities--traffic.
- 20-411. Prohibited unlawful activities--parking.
- 20-412. Prohibited unlawful activities--picnic areas.
- 20-413. Prohibited unlawful activities--games.
- 20-414. Certain behavior declared unlawful.
- 20-415. Prohibited unlawful activities--merchandising, advertising and signs.
- 20-416. Park operating policy; closed areas.
- 20-417. Lost and found articles.
- 20-418. Enforcement.
- 20-419. Additional rules and regulations.
- 20-420. Penalty.
- 20-421. Code of conduct for community center.
- 20-422. Skateboard park special provisions.

20-401. Purpose. The Parks and Recreation Department of the City of Newport shall provide a range of recreational services for city residents of all ages. Said programs shall be designed to provide services that address both leisure enjoyment and exercise needs of city residents. (Ord. #2006-15, Dec. 2006)

20-402. Staffing. The city administrator shall employ a parks and recreation department director who is well qualified in education, professional training, and experience to provide for the city's needs in parks and recreation services.

- (1) The parks and recreation director's staffing responsibilities include:
 - (a) Recommends to the city administrator the proper organization and staff levels required for the department to provide plan of services;

(b) Screening employment applications and recommending those potential employees who will best fit in the program's overall plan for services to the city administrator for employment;

(c) Training department employees;

(d) Daily supervision and overall performance of the department staff in meeting the goals of the city parks and recreation plan of service;

(e) Evaluating performance of employees;

(f) Recommending promotions, disciplinary action and termination of department employees.

(2) The city administrator considers the parks and recreation director's recommendations and determines the appropriate staffing level to recommend for funding to the board of mayor and aldermen in the budget. The city administrator also makes the final decision on employment, promotion, demotion, and any disciplinary action required of the department personnel. (Ord. #2006-15, Dec. 2006)

20-403. Parks and recreation advisory board. The parks and recreation advisory board shall consist of seven (7) members who serve staggered five (5) year terms so that no more than two (2) members are scheduled to vacate the board in any one (1) year. Members are appointed by the mayor with the approval of the board of mayor and aldermen. If a member resigns, moves out of the designated service area, or otherwise vacates a position on the board, the replacement is designated to fill the unexpired term of the vacated position. All members serve in an advisory capacity to the parks and recreation director and city administrator. Their purpose is to:

(1) Assist in developing a park and recreation plan of services;

(2) Serve as an advisory appeal board for patrons who have been disciplined by the parks and recreation director in accordance with the ordinance and parks and recreation rules and regulations, if they disagree with the severity of the action taken.

(3) Assist the parks and recreation director in evaluating the need for new programs as well as evaluating the continued need for existing programs offered in the parks and recreation plan of services;

(4) Assist the parks and recreation director in developing rules and regulations necessary in carrying out the plan of services;

(5) Assist in planning new park and recreation facilities;

(6) Hold hearings if there is conflict at a parks and recreation sponsored event which questions the conduct of a sponsored event coach, officials, or participants and recommend remedial action if appropriate.

(7) Certify coaches of all program sponsored events meet minimum requirements and backgrounds as specified in the program standards for coaches. (Ord. #2006-15, Dec. 2006)

20-404. Plan of service. The parks and recreation department director, with the input from staff members and the parks and recreation advisory board, shall draft a plan of services of the department. The plan will be as simple as possible to include all programs and services to be provided that staffing and funding will support along with the approximate dates programs will begin and end along with a brief description of the program; age groups served by the program; and estimated number of participants. The plan of services will be amended as new programs are added so that the plan of services remains up to date at all times. The plan will be reviewed, revised as necessary to fit funding availability and approved by the city administrator, pending funding by the board of mayor and aldermen in the annual budget process. (Ord. #2006-15, Dec. 2006)

20-405. Definitions. For the purpose of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "City" is the City of Newport, Tennessee.

(2) "Director" is the Director of the Newport Parks and Recreation Department, the person immediately in charge of all parks, facilities, and all their areas and activities, and to whom all park attendants in such areas are responsible.

(3) "Park" is all city owned and operated recreation facilities.

(4) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(5) "Vehicle" is any wheeled conveyance, whether motor powered, animal drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the parks. (Ord. #2006-15, Dec. 2006)

20-406. Hours of operation. Newport parks will be open to use by the public invited thereto between the hours of 7:00 A.M. and 11:00 P.M. or as posted at the park facilities. All persons are invited to use Newport parks and their facilities who will comply with the terms of this chapter and such rules and regulations as may be promulgated hereunder governing the use of such parks. (Ord. #2006-15, Dec. 2006)

20-407. Prohibited beverages and substances. (1) It shall be unlawful for any person to bring controlled substances, as defined in the statutes of the State of Tennessee, and/or alcoholic beverages into any park or recreational area, owned or operated by the City of Newport, or to drink alcoholic beverages or imbibe controlled substances at any time while therein.

It shall likewise be unlawful for any person to enter any area described above while under the influence of controlled substances and/or alcoholic beverages, or be under the influence of controlled substances and/or alcoholic beverages while within the areas described above.

(2) Violation of this section is declared to be a misdemeanor, and any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor and fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). (Ord. #2006-15, Dec. 2006)

20-408. Prohibited unlawful activities generally. It shall be unlawful for any person within Newport parks to:

(1) Building and other property. (a) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any buildings, tables, benches, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(b) Restrooms and washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex.

(c) Removal of natural resources. Dig or remove any soil, rock, stone, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(d) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

(e) Trees, shrubbery, lawns. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach a rope, wire or other contrivance to any plant or tree. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(f) Climbing trees, etc. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

(2) Pedestrian walking track. Stand, loiter or ride bicycles or any wheeled vehicle on walking track. (Ord. #2006-15, Dec. 2006)

20-409. Prohibited unlawful activities--sanitation. It shall be unlawful for any person with Newport parks to:

(1) Pollution of waters. Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, swimming pool, sink or any other tributary any substance, matter or thing, liquid or solid which may result in pollution of waters.

(2) Refuse and trash. Have brought in or shall dump, deposit or leave any garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such trash and refuse shall be carried away from the park by the persons responsible for its presence, and properly disposed of elsewhere. (Ord. #2006-15, Dec. 2006)

20-410. Prohibited unlawful activities--traffic. It shall be unlawful for any person within Newport to:

(1) State motor vehicle laws and city traffic ordinance apply. Fail to comply with all applicable provisions of the state motor vehicle traffic laws and the traffic ordinance of the City of Newport in regard to equipment and operation of vehicles together with such regulations as are contained in this and other ordinances.

(2) Obey personnel; enforcement of traffic regulations. Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, street or roads immediately adjacent thereto in accordance with the provisions of the regulations and such supplementary regulations as may be issued subsequently by the director.

(3) Obey traffic signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and property.

(4) Speed of vehicles. Ride or drive a vehicle at a rate of speed as posted. (Ord. #2006-15, Dec. 2006)

20-411. Prohibited unlawful activities--parking. (1) Designated areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions.

(2) Vehicles left on park property. All vehicles left on park properties after hours will be towed away at the owner's expense. (Ord. #2006-15, Dec. 2006)

20-412. Prohibited unlawful activities--picnic areas. (1) Generally. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the

comfort and convenience of all. Visitors shall comply with any direction given to achieve this.

(2) Availability. Violate the regulation/reservation use of the picnic shelters.

(3) Reservations. Reservations may be made to ensure the use of said picnic shelter/pavilion. A reservation fee is required in advance to ensure use of said shelter/pavilion.

(4) Duty of picniker. Leave a picnic area before a fire is completely extinguished and before all trash, liter and garbage is placed in proper disposal receptacles. If no such trash receptacle is available, then garbage and trash shall be carried away from the park area by the picniker to be properly disposed of elsewhere. (Ord. #2006-15, Dec. 2006)

20-413. Prohibited unlawful activities--games. Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football and baseball is prohibited except on the fields and courts or areas provided therefore. (Ord. #2006-15, Dec. 2006)

20-414. Certain behavior declared unlawful. It shall be unlawful for any person within Newport parks to:

(1) Intoxicating beverages. (a) Prohibition. Bring controlled substances and/or alcoholic beverages, into the park or drink alcoholic beverages at any time in the park.

(b) Drunkenness. Have entered the park while under the influence of controlled substances and/or intoxicating beverages, or be under the influence of controlled substances and/or intoxicating liquor while within the park.

(2) Firearms and explosives. Bring or have in his possession, or set off or otherwise cause to explode or discharge or burn any type of fireworks or explosives in any such area or property adjacent thereto.

(3) Fight/argue. It shall be unlawful for any person to argue or fight within any park or recreational facility owned or operated by the City of Newport. Any person, firm, or corporation found in violation of fighting or arguing, shall be punished by a fine not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or by a sentence of not more than ninety (90) days in jail, or both.

(4) Domestic animals. Have been responsible for the entry of a dog or other domestic animals into areas other than automobile parking concourses and walks immediately adjacent thereto, and in such areas as may be clearly marked by signs. Nothing herein shall be constructed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall

be restrained at all times on adequate leashes not greater than five (5) feet in length.

(5) Dress. Appear at any place in other than proper clothing.

(6) Alms. Solicit alms or contributions for any purpose, whether private or public.

(7) Fires. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the director. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park area or on the highway, road or street abutting or contiguous thereto.

(8) Closed areas. Enter an area posted as "closed to the public" nor shall any person use or abet the use of any area in violation of posted notices.

(9) Games of chance. Gamble or participate in or abet any game of chance.

(10) Loitering and boisterousness. Sleep or protracted lounge on seats or benches, or other areas or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace. (Ord. #2006-15, Dec. 2006)

20-415. Prohibited unlawful activities--merchandising, advertising and signs. No person within Newport parks shall:

(1) Vending and peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is herein made as to any regularly licensed concessionaire acting by and under the authority and regulation of the director.

(2) Advertising. Announce, advertise or call to the public attention in any way to any article or service for sale or hire.

(3) Signs. Paste, glue, tack or otherwise post any sign, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on Newport parks. (Ord. #2006-15, Dec. 2006)

20-416. Park operating policy; closed areas. Any section or part of the Newport Parks and Recreation Department may be declared closed to the public by the director at any time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the director shall find reasonably necessary. (Ord. #2006-15, Dec. 2006)

20-417. Lost and found articles. The finding of lost articles by park attendants shall be reported to the director who shall make every reasonable effort to locate the owners. The director shall also make every reasonable effort to find articles reported as lost. (Ord. #2006-15, Dec. 2006)

20-418. Enforcement. (1) Officials. The director and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(2) Ejectment. The director and any park attendant shall have the authority to eject from the park any person acting in violation of this chapter or rules and regulations promulgated hereunder. (Ord. #2006-15, Dec. 2006)

20-419. Additional rules and regulations. The director shall have the authority to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter and to ensure an impartial, fair and safe use and enjoyment of Newport parks by those persons lawfully using the parks. The director shall have the authority to schedule the use of all park facilities and ball fields under this section. Regulations pertaining to specific activities shall be displayed in a prominent and public location at the point of activity controlled. Rules and regulations pertaining to the parks as a whole shall be publicly and prominently displayed at the entrance to Newport parks. Rules and regulations adopted in accordance with this section shall have the same force and effect as if copied herein verbatim. (Ord. #2006-15, Dec. 2006)

20-420. Penalty. Any person, firm or corporation violating any of the provisions of this chapter, by omission or commission of any act or deed, or refuses to comply with the instructions of any park attendant, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), or by a sentence of not more than ninety (90) days in jail, or both. (Ord. #2006-15, Dec. 2006)

20-421. Code of conduct for community center. The following code of conduct shall apply to the Newport Community Center and surrounding grounds under the operation and control of the City of Newport.

(1) The stealing of any personal or city-owned property will result in immediate and permanent suspension from the Newport Community Center and anyone caught or suspected of stealing shall be turned over to the Newport Police Department for conviction by the proper courts.

(2) There will be no alcoholic beverages, drugs, or gambling in the building or on surrounding grounds. No one under the influence of alcohol or drugs shall enter the building or be allowed on the surrounding grounds and/or parking lots. The violation of the above rules and regulations (1) and (2) will result in immediate and permanent suspension.

(3) No writing, marking or defacing any wall, floor, doors, or ceilings in any manner, is permitted.

(4) No arguing or fighting is allowed in the Newport Community Center or surrounding grounds and/or parking lots.

(5) No misuse of equipment or building. The party responsible for any damage will be required to make restitution to the City of Newport for the amount of the damage.

(6) Loud, profane, or vulgar language by anyone in or around the Newport Community Center, parking lots or grounds will not be permitted or tolerated.

(7) The violation of the above subsections (1) through (5) will result in:

(a) 1st violation--thirty (30) days suspension;

(b) 2nd violation--sixty (60) days suspension; and

(c) 3rd violation--ninety (90) days suspensions.

(d) Any violations over three (3) will result in permanent suspension.

(8) Any expression of physical or verbal abuse to any staff member or user of facility will result in suspension.

(9) The playing of radios, tape players, etc. will be permitted only with staff approval.

(10) No smoking, food or drinks allowed in gym, weight room, pool, or racquetball area, unless authorized by the staff member in charge. Smokeless tobacco is not allowed in any area of the community center.

(11) No roaming the hallways. You must have a definite destination and/or activity.

(12) No spitting within the facilities--floors, walls, sinks, etc.

(13) Shoes and shirts are required to enter the building.

(14) Shirts are required at all times.

(15) When leaving the pool area you must be dry with no wet feet, legs, or other body parts. Shirts and shoes must be worn when leaving the pool area.

(16) No running in any areas of the building, with the exception of the gymnasium.

(17) No smoking allowed inside the community center building.

(18) No riding or parking of any type of bicycle, skateboards or skates on any sidewalk, ramp, or steps that lead to any entrance to the building.

(19) Violation of the above subsections (8) through (18) will result in:

(a) 1st violation--five (5) days suspension;

(b) 2nd violation--fifteen (15) days suspension;

(c) 3rd violation--thirty (30) days suspension.

(d) Any violations over three (3) will result in permanent suspension.

(20) No public display of affection and/or sexual conduct will be permitted or tolerated. Violation of this subsection will be punishable depending on the severity of the conduct. The staff member in charge will determine the amount of suspension time no less than five (5) days and/or if permanent suspension is necessary.

(21) All rules that are posted inside the community center and/or on all surrounding city owned property apply and must be followed.

(22) The Newport Community Center staff will maintain a written record of all reported violations of these rules and regulations. The staff will also maintain a written record of all disciplinary action taken against individuals.

(23) Any violation of a city ordinance or state or federal law will be reported to the proper authorities and will be dealt with by the court having proper jurisdiction. A conviction by a court or a finding of delinquency by the juvenile court will automatically result in a permanent suspension of privileges of using the Newport Community Center or the surrounding grounds and parking lots.

(24) Any person dissatisfied with the decision of the Newport Community Center Director on any violation shall have the right to appeal and request a hearing before the Newport Recreation Board. Such request must be made in writing, setting forth the reasons for the request, and filed within five (5) days from the date of the decision complained about. (Ord. #2006-15, Dec. 2006)

20-422. Skateboard park special provisions. (1) Skateboard park operation--general. The City of Newport has established a skateboard park for the use and enjoyment of Newport residents. However, skateboarding can be dangerous with the possibility of serious injury. Therefore, the following rules and precautions are required for use of the Newport skateboard park facilities.

(2) Waiver required. All skateboard park participants must read and sign a waiver annually, each January, prior to using the skate park at which time they will receive a sticker for their helmets as proof they have complied with city regulations for use of the skate park. Parents or guardians of participants under the age of eighteen (18) must also read and sign the waiver.

(3) Skating wisely. All skaters are urged to skate wisely at all times. Skateboarding and skating can be hazardous recreational activities. Use of the skateboard park facility may result in death or serious injury. Parents or guardians of participants under the age of eighteen (18) are urged to help emphasize wise skating to their skaters. Use of the skateboard park facility is strictly at an individual's own risk. The City of Newport does not assume any responsibility for loss or injuries.

(4) Skating within skill level. Skaters should skate within their individual skill level at all times. Parents or guardians of participants under the age of eighteen (18) are urged to help explain to their skaters the meaning of skating within skill level and help emphasize skill level to their skaters.

(5) Skating with in-line skates and skateboards only. The Newport skateboard park is designed for in-line skateboard use only. No other type skate will be allowed.

(6) Hours of operation. The skate park opens at dawn and closes at dusk.

(7) Park is self policing. The skate park is self policing. Skaters are expected to be respectful of all skaters and pick up after themselves. Skate parks should be free from trash and litter. If the skateboard park has litter or trash on it when a skater arrives, the park should not be used until the litter or trash has been cleared. Participants should police the area of trash and place in trash receptacles.

(8) Helmet use. The use of helmets designed for skateboarding is required, they must fit properly and have straps fastened. Other safety equipment, elbow pads, knee pads and wrist pads, is strongly recommended. All helmets must display the parks and recreation numbered sticker to assure the participant is properly registered.

(9) Loaning helmets to others for use is prohibited. Loaning helmets to unregistered skaters is strictly prohibited and will result in an individual being permanently banned from the skateboard park. In addition, it may place the offending registered user in serious liability situation if the user of a loaned helmet is injured on the skateboard park. Parents or guardians of participants under the age of eighteen (18) are urged to help explain to their skaters the potential consequences and possible liability to their skaters.

(10) Prohibited items and activities on the skateboard park property. The following are not permitted in the skate park area:

- (a) Alcoholic beverages;
- (b) Smoking and/or tobacco products;
- (c) Fighting;
- (d) Profanity;
- (e) Graffiti/tagging;
- (f) Pets;
- (g) Loud music;
- (h) Glass containers;
- (i) Bicycles;
- (j) Motorized vehicles;
- (k) Scooters;
- (l) Food and beverages;
- (m) Weapons.

(11) Other prohibited items on the skateboard park. Personal obstacles, ramps, other equipment or materials are not permitted to be used or added to the facility. Facility structures are not to be altered or waxed.

(12) Weather conditions. Certain weather conditions may create unsafe surfaces for skating. Skaters as well as parents and guardians of minors are urged to consider the weather conditions before using the skateboard park facilities.

(13) Stolen or lost items. The City of Newport is not responsible for lost or stolen items. Participants are urged to keep up with their property.

(14) Safety and courtesy. Participants are urged to skate safely and be courteous to other skaters.

(15) Spectators. All spectators are required to remain outside of the skating area.

(16) Organized events. All organized events require advanced, written approval from the City of Newport Parks and Recreation Department Director.

(17) Reporting damage or hazardous conditions. All citizens are urged to report any damage, hazardous conditions, concerns, comments or suggestions to the Newport Parks and Recreation, 433 Prospect Avenue, Newport, TN 37821. For emergencies they should call 911.

(18) City reserved rights. The City of Newport reserves the right to close the skateboard park facility for any reason. The City of Newport authorities, at their discretion, reserve the right to restrict entry to the facility and ask persons to leave the facility as the result of disorderly conduct, disturbance of the peace, rule violations or unsafe behavior. Any person not complying with such request will not be permitted to use the facility and may then be charged with trespassing. (Ord. #2006-15, Dec. 2006)

APPENDIX A

ZONING ORDINANCE

FOR

NEWPORT

TENNESSEE

DATE OF ORIGINAL ADOPTION

January 13, 1994

DATE OF LAST READOPTION

August 14, 2007

MUNICIPAL ZONING ORDINANCE
OF
NEWPORT, TENNESSEE

Prepared For

The Newport Board of Mayor and Aldermen

Mayor Connie Ball

Vice-Mayor James B. (Jimmy) Clark

Alderman Luke Goddard

Alderman John M. Bugg

Alderman Fred L. Gregg

Alderman Dennis Thornton

The Newport Regional/Municipal Planning Commission

Leon Bryant, Chairman

Paul Teague, Vice-Chairman

Connie Ball, Mayor

Jan Carpenter

Pat Proffitt

Jim McSween, Secretary

Dennis Thornton, Alderman

Cecil Giland

Charlie Rathbone

Walter Cole, Director of Planning

Prepared By The
Local Planning Assistance Office
The Department of Economic and Community Development
Johnson City, Tennessee

TABLE OF CONTENTS

A-3

1. MUNICIPAL PLANNING COMMISSION

Section

101. Creation and Membership.	A-6
102. Organization, Powers, Duties, etc.	A-6
103. Additional Powers.	A-6

2. THE ZONING ORDINANCE OF THE CITY OF NEWPORT

Section

201. Authority.	A-7
202. Short Title.	A-7
203. Purpose.	A-7
204. Definitions.	A-8

3. GENERAL PROVISIONS

Section

301. Continuance of Nonconforming Uses and Structures.	A-13
302. Off-Street Automobile Parking.	A-14
303. Off-Street Loading and Unloading Space.	A-16
304. Off-Street Parking Lot Design Requirements.	A-16
305. Ingress and Egress.	A-17
306. Access Control.	A-17
307. Vision Clearance.	A-19
308. Planned Unit Development (PUD) Regulations.	A-19
309. Signs.	A-23
310. Site Plan Regulations for Commercial, Public, and Semi-Public Uses.	A-33
311. Site Plan Regulations for Industrial Uses.	A-35
312. Temporary, Mobile, Factory-Built, or Factory Assembled Structures.	A-38
313. Customary Home Occupations.	A-40
314. Gasoline Service Stations.	A-41

4. APPLICATION OF REGULATIONS

Section

401. Use.	A-42
402. Street Frontage.	A-42
403. Corner Lots.	A-42
404. One Principal Building on a Lot.	A-42
405. Reduction of Lot Size.	A-42
406. Yard and Other Spaces.	A-42

TABLE OF CONTENTS

A-4

407. Conformity to Subdivision Regulations.	A-43
408. Accessory Building and Use Regulations.	A-43
409. Height and Density.	A-44

5. ESTABLISHMENT OF DISTRICTS

Section

501. Classification of Districts.	A-45
502. Zoning District Boundaries.	A-45

6. PROVISIONS GOVERNING USE DISTRICTS

Section

601. R-1 Low Density Residential District.	A-46
602. R-2 Medium Density Residential District.	A-47
603. M-R Medical/Residential District.	A-48
604. P-1 Residential/Professional District.	A-48
605. C-1 Central Business District.	A-49
606. C-2 General Business District.	A-50
607. C-3 Interstate Highway Business District.	A-51
608. M-1 Light Industrial District.	A-52
609. M-2 Heavy Industrial District.	A-53
610. A-1 Agriculture District.	A-53

7. AREA, YARD, AND HEIGHT REQUIREMENTS

Section

701. Area, Yard, and Height Requirements.	A-55
---	------

8. EXCEPTIONS AND MODIFICATIONS

Section

801. Lot of Record.	A-56
802. Adjoining and Substandard Lots of Records.	A-56
803. Exceptions for Carport or Garage Construction.	A-56
804. Front Yards.	A-57
805. Exceptions on Height Limits.	A-57

9. ADMINISTRATION AND ENFORCEMENT

Section

901. Building Permit Required.	A-58
902. Enforcing Officer.	A-58
903. Application For/Issuance of Building Permits.	A-58

TABLE OF CONTENTS

A-5

904. Expiration/Extension of Building Permit Approvals.....	A-59
905. Final Site Inspection/Issuance of Certificate of Occupancy. .	A-59
906. Violations.....	A-59
907. Penalties.	A-60
908. Remedies.	A-60

10. BOARD OF ZONING APPEALS

Section

1001. Creation and Appointment.....	A-61
1002. Procedure.....	A-61
1003. Appeals.	A-61
1004. Powers.	A-61
1005. Action of the Board of Zoning Appeals.....	A-62

11. AMENDMENTS

Section

1101. Procedure.....	A-63
1102. Approval by Planning Commission.	A-63
1103. Introduction of Amendment.	A-63

12. LEGAL STATUS PROVISIONS

Section

1201. Conflict With Other Ordinances.....	A-64
1202. Validity.	A-64
1203. Effective Date.	A-64

APPENDICES

Appendix A Illustration A - Setbacks.	A-66
Appendix A Illustration B - Farthest Extension of Setback.....	A-67
Appendix B Street Classifications.....	A-68
Appendix C Certificate of Planned Unit Development Approval..	A-69
Appendix D Certificate of Site Plan Approval.	A-70
Appendix E Application for Board of Zoning Appeals.	A-71
Appendix F Application for Zoning Reclassification.....	A-74

**Zoning Ordinance
Newport, Tennessee**

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 101. Creation and Membership
- 102. Organization, Powers, Duties, etc.
- 103. Additional Powers

101. Creation and Membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of nine (9) members; two (2) of these shall be the mayor and another member of the governing body, selected by the governing body; the other seven (7) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the seven (7) members appointed by the mayor shall be for four (4) years each. The seven (7) members first appointed shall be appointed for terms of one, two, three, four, and five years respectively so that the term of one member expires each year. The term of the mayor and the member selected by the governing body shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor.

102. Organization, Powers, Duties, etc. The planning commission shall be organized and shall carry out its powers, functions and duties in accordance with Tennessee Code Annotated, title 13.

103. Additional Powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

CHAPTER 2**THE ZONING ORDINANCE OF THE
CITY OF NEWPORT, TENNESSEE****SECTION**

- 201. Authority
- 202. Short Title
- 203. Purpose
- 204. Definitions

201. Authority. An ordinance, in pursuance of the authority granted by Tennessee Code Annotated, §§ 13-7-201 through 13-7-210 and § 13-7-401, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare; to provide for the establishment of districts within the corporate limits; to regulate within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

BE IT ORDAINED by the City Council of the City of Newport.

202. Short Title. Chapters 2 through 13 in this title shall be known as the "Zoning Ordinance of the City of Newport, Tennessee." The map herein referred to as the "Zoning Map of Newport, Tennessee," and all explanatory matter thereon are hereby adopted and made a part of this code. A copy of the zoning map is on file in the planning office at the Newport Municipal Building.

203. Purpose. These zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other danger, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration among other things, as to the character of each district, and its particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

204. Definitions. Unless otherwise stated, the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The words "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

(1) Access. The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

(2) Accessory Structure. A structure that is customarily designed and used as an accessory use. The following are excluded: single-wide mobile homes, tractor trailers, car trailers, recreational vehicles, storage containers designed to transport goods, etc. that are not customarily designed accessory structures.

(3) Advertising. Includes any writing, printing, graphics, painting, display, emblem, drawing, sign, or other device designed, used or intended for advertising, whether placed on the ground, rocks, trees, or other natural features or on buildings, structures, milestones, sign boards, billboards, wall board, roof board, frames, supports, fences or other man-made structure.

(4) Alley. A vehicular travel way which affords a secondary means of access to the back or side of properties otherwise abutting a street.

(5) Antenna. A metallic/graphic/fiberglass apparatus (aerial) for sending and receiving electromagnetic waves.

(6) Boarding or Rooming House, Tourist Home, or Bed and Breakfast Inn. A building containing a single dwelling unit and not more than five (5) guest rooms where lodging is provided with or without meals for compensation.

(7) Buffer Strip. A strip of land not less than ten (10) feet in width and on which plant material is planted that has such growth characteristics as will provide an obscuring screen not less than six (6) feet in height within two (2) years of planting.

(8) Buildable Area of a Lot. That portion of a lot bounded by the required rear yard, side yards and the building setback line (See Appendix A, Illustration A).

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

(a) Building or Use, Accessory. A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

(b) Building, Modular. A unit of construction which is totally or in part constructed off-site and transported for on-site erection, placement, assembly or similar terms.

(c) Building, Prefabricated. A building constructed on-site from components which have been prefabricated, panelized, or constructed in sections off-site.

(d) **Building, Principal.** A building in which is conducted the main or principal use of the lot on which said building is located.

(10) **Building Height.** The vertical distance measured from the finished grade at any building line to the highest point of the roof; provided that where land is subject to required minimum flood elevations, the building height shall be measured from such required elevation.

(11) **Building Setback Line.** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. These setbacks shall be measured from the property line to the nearest point of exposed foundation, building/porch support, or farthest extending protrusion of the building/structure (See Appendix A, Illustration B).

(12) **Business Services.** Establishments engaged primarily in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; and, office equipment rental.

(13) **Carport.** A structure used for the storage of vehicles and having no enclosure other than its roof and such necessary support as will present the minimum obstruction to light, air and view.

(14) **Club.** Buildings and facilities owned or operated by an association or persons for a social or recreational purpose, but not operated primarily for profit or to render a service which is customarily carried on as business.

(15) **Condominium.** A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

(16) **Day Care Center.** An establishment which receives for care and supervision six (6) or more children or adults for less than twenty-four (24) hours per day unattended by parent or legal guardian, and shall include day nurseries, child or senior adult day care services, nursery and play schools, and non-public kindergartens.

(17) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(18) **Dwelling Unit.** One (1) or more rooms designed as a unit for occupancy as living quarters for sleeping and cooking purposes.

(a) **Dwelling, Multi-Family.** A building designed, constructed or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural wall with any other dwelling on the same floor.

(b) **Dwelling, Single Family.** A building designed, constructed and used for one (1) dwelling unit.

(c) Dwelling, Two Family or Duplex. A building designed, constructed, or reconstructed and used for two (2) dwelling units that are connected by a common structural wall.

(19) Family. One (1) or more persons occupying a premise and living together as a single housekeeping unit.

(20) Flood. A temporary condition of partial or complete inundation of dry land areas from the overflow of water from streams or rapid accumulation or runoff of surface water from any source.

(21) Floor Area. The total area of all floors of a building including a finished attic and finished basement.

(22) Home Occupation. Any activity carried out for gain by a resident as an accessory use in the resident's dwelling unit and/or other structure located on the same lot as the dwelling unit.

(23) Junkyard. A lot, land or structure, or part thereof, used primarily for collecting, storage, and/or sale of wastepaper, rags, scrap metal, or discarded materials or for collecting, dismantling, storing, and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

(24) Landscaping. The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials, provided that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects, and similar accessory features may be considered as landscaping if integrally designed.

(25) Lot. A parcel of land which fronts on and has access to a public (governmentally owned and maintained) street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open spaces.

(26) Lot Line. The boundary dividing a given lot from a street, alley, or adjacent lots.

(a) Lot Line, Front. That property line running with the street right-of-way which gives access to the lot.

(27) Lot of record. A lot existing prior to this ordinance, the boundaries of which are filed as legal record.

(28) Medical Facilities. (a) Convalescent, Rest or Nursing Home: A health care facility where persons are housed and furnished with meals and continuing nursing care for compensation.

(b) Dental Clinic or Medical Clinic: A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions.

(c) Hospital: An institution providing health services primarily for human inpatient medical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, emergency medical services, and staff offices which are an integral part of the facility.

(d) **Public Health Center:** A facility utilized by a health unit for the provision of public health services.

(29) **Mobile Home.** A detached residential dwelling unit built on a single chassis and designed for transportation after fabrication on streets or 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 operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like, and which meets all standards of the Southern Standard Building Code.

(30) **Mobile Home Park.** A parcel or tract of land under single ownership which has been planned and improved for the placement of mobile homes for dwelling purposes under the planned unit development regulations.

(31) **Modular Building.** See Building, Modular.

(32) **Nonconforming Use.** Any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

(33) **Noxious Matter.** Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, chemical reactions, or detrimental effects upon the social, economic, or physiological well-being of individuals.

(34) **Personal Services.** Establishments primarily engaged in providing services involving the care of a person or his or her apparel, such as beauty and barber shops, shoe repair, tailor and seamstress, and weight control and exercise salons.

(35) **Planned Unit Development.** An integrated design for development of residential, commercial, or industrial uses or combination of uses which is professionally designed to allow flexibility and initiative in site and building design and location, in accordance with a plan approved by the planning commission.

(36) **Principal Use.** The specific primary purpose for which land or a building is used.

(37) **Professional Office.** The office of a physician, dentist, attorney, architect, engineer, urban planner, accountant, or related professions.

(38) **Retail Trade and Services.** Establishments engaged in selling goods and/or offering services to the general public for personal, small business, or household use or consumption.

(39) **Satellite Dish Antenna.** An earth station antenna, parabolic or spherical design, for the reception or transmission for the satellite or terrestrial communication services.

(40) **Shopping Center.** For the purpose of this ordinance, a shopping center shall be considered as an enterprise located on a single parcel of property which is internally separated or segregated into individual shops or separate, distinct businesses or functions. Individual ownership is not a factor. These centers shall be considered as planned unit developments.

(41) Street, Public. Any vehicular way, except alleys, which is owned and maintained by the city, state, or federal governments.

(42) Structure. Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground, including signs and fences.

(43) Townhouse. A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more common fire resistant walls.

(44) Travel Trailer. Any vehicle used, or so constructed as to permit its being used as conveyance upon the public streets or highways duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and designed, for short-term occupancy, for frequent and/or extensive travel, and for recreational and vacation use, including camper trucks and self-propelled campers, etc.

(45) Travel Trailer Parks. Any plot of land approved as a planned unit development upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters for periods of thirty days (30), or less.

(46) Wholesale Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

(47) Yard. An open space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance (See Appendix A, Illustration A).

(a) Yard, front. The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building including covered porches.

(b) Yard, rear. The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches.

(c) Yard, side. A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

CHAPTER 3

GENERAL PROVISIONS

SECTION

- 301. Continuance of Nonconforming Uses and Structures
- 302. Off-Street Automobile Parking
- 303. Off-Street Loading and Unloading Space
- 304. Off-Street Parking Lot Design Requirements
- 305. Ingress and Egress
- 306. Access Control
- 307. Vision Clearance
- 308. Planned Unit Development Regulations
- 309. Signs
- 310. Site Plan Regulations for Multi-Family Residential, Commercial, Public, and Semi-Public Uses
- 311. Site Plan Regulations for Industrial Uses
- 312. Temporary, Mobile, Factory-Built, or Factory-Assembled Structures
- 313. Customary Home Occupations
- 314. Gasoline Service Stations

301. Continuance of Nonconforming Uses and Structures. Lawful nonconforming uses, buildings, and structures existing at the time of the passage of this zoning ordinance, or any amendment thereto, shall be allowed to remain subject to the following provisions:

(1) No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this ordinance.

(2) When the following conditions have existed for a period of six (6) months, it shall be evidence of an intent to abandon a nonconforming use; and no use of land or structures shall be undertaken thereafter unless it be in conformity with the provisions of the district within which such property is located.

(a) **Nonresidential Uses.** No employees, customers, or clients are present on site who are there to actively conduct business, give or receive professional services, participate in activities, or use equipment that is considered to be essential to the character and operation of the nonconforming use, and, no serious attempts are being made to market the property for sale for its former use.

(b) Residential Uses. No residents, whether they be owners or tenants, are present, and no serious attempts are being made to market the property for sale for its former use.

(3) Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the building official determines that the building is damaged to the extent of more than fifty (50) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.

When a structure has been burned, damaged or destroyed, it shall be deemed as a “nonconforming structure” and as such shall be repaired or demolished (abated). After 90 days, a burned damaged or destroyed structure shall be considered a public nuisance.

When any structure has been damaged or destroyed, repair or demolition shall be commenced at the earliest opportunity and at a maximum allotted time not exceeding 90 days. Extenuating circumstances will be considered, such as:

(a) Not yet released by the State Fire Marshall’s Office, pertaining to arson investigations.

(b) Specific investigations by the property owner’s insurance company being not complete.

(c) Local fire inspector, building inspector or police investigator requiring further investigations, or

(d) Approval by the NRPC or BZA for extensions of time.

(4) Nonconforming mobile homes located on single lots may be replaced with newer and/or more structurally sound mobile homes for protection of the health, welfare, and safety of the mobile home resident and surrounding property owners.

302. Off-Street Automobile Parking. (1) With the exception of uses within the C-1, Central Business District, the number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below. For uses not specifically mentioned herein, off-street parking requirements shall be determined by the Board of Zoning Appeals. Each space shall conform to off-street parking lot design requirements as established in Section 304.

(a) Automobile repair shop and/or truck repair: One (1) space for each employee plus one (1) space for each two hundred and fifty (250) square feet of floor space used for repair work.

(b) Bed & Breakfast/Tourist Homes: One (1) space for each room to be rented in addition to the two (2) spaces for the home.

(c) Boarding houses and rooming houses: Not less than one (1) space for each room to be rented.

(d) Bowling Alley: Not less than five (5) spaces for each bowling lane.

(e) Churches: One (1) space for each four (4) seats.

- (f) Clubs and lodges: One (1) space for each three hundred (300) square feet of floor space.
- (g) Dwelling, single-family: Not less than two (2) spaces per dwelling unit.
- (h) Dwelling, multiple-family: Not less than two (2) spaces per dwelling unit.
- (i) Funeral parlors: One (1) space for each four (4) seats in the chapel.
- (j) Gasoline service stations and similar establishments: Four (4) spaces for each bay or similar facility plus one (1) space for each employee.
- (k) Hospitals and convalescent/nursing homes: One (1) space for each four (4) patient beds, plus one (1) space for each two (2) employees including staff doctors and nurses.
- (l) Hotels, motels, and other tourist accommodations: Not less than one (1) space for each room to be rented plus one (1) additional space per three (3) employees.
- (m) Manufacturing or other industrial use: Not less than one (1) space for each three (3) persons employed or intended to be employed, with a minimum of five (5) spaces for any establishment.
- (n) Mini-Warehouse/Self Storage: One (1) space per storage room rented out.
- (o) Mobile home parks: Two (2) spaces for each mobile home.
- (p) Movie Cinema: Not less than one (1) space for each four (4) seats.
- (q) Offices:
 - (i) Medical - one (1) space for each three hundred (300) square feet of floor space.
 - (ii) Other professional - one (1) space for each four hundred (400) square feet of floor space.
 - (iii) General - one (1) space for each four hundred (400) square feet of floor space.
- (r) Places of public assembly: one (1) space for each five (5) seats in the principal assembly room or area.
- (s) Restaurants: One (1) space per two (2) customers computed on a maximum seating capacity. Restaurants that also serve take-out orders shall provide six (6) additional spaces. Drive-thru restaurants with no indoor seating shall provide fourteen (14) spaces per 1,000 gross square feet of restaurant area.
- (t) Retail business, shopping centers and similar uses: Four (4) spaces for each one thousand (1,000) square feet of gross leasable area.
- (u) Schools: One (1) space for each faculty member and five (5) additional spaces for visitor parking, plus one (1) space for each four (4) pupils except in elementary and junior high schools.

(v) Wholesale business: One (1) space for each three (3) employees based on maximum employment.

(2) Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) use may not be assigned to another use; except that, the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sunday.

(3) Remote Parking Space. If the off-street parking space required herein cannot reasonably be provided on the same lot on which the principal use is located, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use, provided that such land is in the same ownership as the principal use, provided it is not on the opposite side of a major street or stream, provided a sidewalk is constructed connecting the two parcels if none exists; and provided that such remote parking spaces are located within a zoning district which permits the same or similar uses to that of the use for which the parking is intended. Such land shall be used for no other purpose so long as no other adequate provision for parking space, meeting the requirements herein specified, has been made for the principal use.

303. Off-Street Loading and Unloading Space. With the exception of uses within the C-1, Central Business District, every building or structure hereafter constructed and used for industry, wholesale, business, or trade shall provide space for the loading and unloading of vehicles off the public street or alley. Each space shall measure at a minimum of 12 x 30 feet and shall not be considered as part of the space requirements for off-street automobile storage.

304. Off-Street Parking Lot Design Requirements. To protect and enhance community appearance and to provide orderly, safe, and systematic circulation within parking areas, the following regulations shall apply:

(1) All areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street or alley to obtain egress.

(2) All parking lots shall be set back a minimum of five (5) feet from all public right-of ways.

(3) Each parking space shall be a minimum of nine (9) feet by nineteen (19) feet with minimum parking aisle and width dimensions shown as follows:

<u>Parking</u>	<u>Stall</u>	<u>Stall</u>	<u>Aisle</u>
<u>Angel</u>	<u>Length</u>	<u>Width</u>	<u>Width</u>
30 deg.	19.0	9.0	12.0
45 deg.	19.0	9.0	13.0
60 deg.	19.0	9.0	18.0
70 deg.	19.0	9.0	24.0
90 deg.	19.0	9.0	24.0

(4) Handicapped parking shall be provided as regulated in the Southern Standard Building Code. Each establishment shall have a minimum of one (1) handicapped parking space and be a minimum of twelve (12) feet and six (6) inches by nineteen (19) feet.

(5) All parking aisles shall be arranged so as to channel traffic and minimize vehicular/pedestrian conflicts.

(6) Entrances and exits for all off-street parking lots shall comply with the requirements of Section 306 of this ordinance.

(7) The parking lot shall be adequately drained to eliminate surface water without contributing to drainage problems on adjoining property or rights-of-way.

(8) With the exception of single-family dwellings, all required off-street parking shall be paved with a minimum of asphaltic concrete and have an adequate base to prevent premature break-up.

(9) All fixed objects within parking lots (utility poles, signs, fire hydrants, etc.) shall be located within islands to which access by vehicles is physically limited. These islands shall be landscaped with grass, shrubs, trees, or other appropriate plant material which shall not obstruct visibility from vehicles.

(10) Traffic safety signs, signals, and markings shall be in conformance with the Tennessee Manual on Uniform Traffic Control Devices. Where needed, size reduction of devices shall be approved, however, shape and color shall meet requirements of the manual.

(11) Parking rows and interior dividers shall be terminated with terminal islands not less than five (5) feet in width, constructed with raised curbs, and landscaped with appropriate cover.

(12) Landscaping shall be required as established in Section 310.2.d or 311.2.d.

(13) Maintenance of all islands, parking spaces and ways, landscaping, and traffic control devices within the parking facility is the responsibility of the property owner. All elements shown on the site plan are to be maintained on a regular schedule. All structures or plant materials that are damaged must be replaced to original standards within ninety (90) days. The planning director or his designated representative shall regularly inspect parking lots required to meet these regulations. The planning director or his representative shall notify the property owner and/or manager upon finding deficiencies in structural or landscaped areas.

305. Ingress and egress. A plan for adequate and safe ingress and egress for all land uses shall be required.

306. Access control. It is the purpose of this section to establish reasonable and impartial regulations for the location of driveway entrances, and

to promote the safety of users of the streets and lands of Newport through the control of design, location, and construction of driveway entrances.

(1) General Provisions. In no case shall any curbs on city streets or rights-of-way be cut or altered without first obtaining a driveway permit from the planning department. Minimum paving requirements for such driveways shall be determined by the planning director at the time of application. In all cases, the driveway extension over the right-of-way shall be paved to protect public streets.

(2) Driveway Alignment. Single driveways shall be positioned at right angles to the roadway. Where two (2) driveways are used on one (1) frontage, and they are to be used for access to and from both directions of travel on the highway, each roadway shall be at right angles with the center line of the roadway. The driveway angle may be between forty-five (45) degrees (min.) and sixty (60) degrees (max.) when the driveway is to be used by vehicles in only one direction of highway travel (right turns only) on a divided highway.

(3) Driveway Entrance Regulations. All driveway entrances shall be located subject to the following controls:

(a) On all streets classified as Level A on the official zoning map (See Appendix B), no driveway entrances shall be constructed within one hundred (100) feet of an intersecting street right-of-way line.

(b) On all streets classified as Level B and C on the official zoning map (See Appendix B), no driveway entrances shall be constructed within sixty (60) feet of an intersecting street right-of-way line.

(c) On all streets classified as Level D on the official zoning map (See Appendix B), no driveway entrances shall be constructed within twenty-five (25) feet of an intersecting street right-of-way line.

(d) On all streets classified as Level A on the official zoning map, no driveway entrances shall be constructed within forty (40) feet of the side property line.

(e) On all streets classified as Level B and C on the official zoning map, no driveway entrances shall be constructed within twenty (20) feet of the side property line.

(f) If neighboring property owners wish to share a driveway, the shared side property line setback requirements shall be waived. If a driveway is shared, this one (1) driveway will count as two (2), or as one (1) driveway per lot and all other access control requirements shall be met.

(g) If a lot of record cannot meet the above access control requirements, a driveway cut will not be denied; but the spirit and intent of this section shall be adhered to as closely as possible.

(4) Number of Driveway Entrances Allowed. In order to promote the safety of the motorist and to minimize traffic congestion and property damage by reducing the points of conflict, the following regulations shall apply:

(a) Lots with less than one hundred fifty (150) feet frontage may have one (1) driveway entrance.

(b) Lots with one hundred fifty (150) feet to eight hundred (800) feet of frontage may have two (2) driveway entrances.

(c) Lots with over eight hundred (800) feet frontage may have one (1) additional driveway entrance for each additional four hundred (400) feet.

(5) Driveway Entrance Widths. The width of all curb cuts shall be within the following limits.

(a) Residential uses shall be limited to driveway widths between ten (10) and twenty-five (25) feet.

(b) Uses serving twenty-five (25) or more large trucks per week shall have driveway widths between twenty (20) and forty (40) feet.

(c) All other uses shall be limited to driveway widths between fifteen (15) and thirty (30) feet.

307. Vision Clearance. In all districts there shall be no plants or structures placed in or on any yard partition of a lot that would obstruct the vision of auto or pedestrian traffic using the intersecting public streets.

308. Planned Unit Development (PUD) Regulations. The purpose of the Planned Unit Development regulations is to provide for diversification in the relationship of uses and structures to their sites and also provide flexibility which will create a more desirable living environment. A PUD shall mean an integrated, professionally prepared design for development of residential, commercial, or industrial uses, or as permitted, combinations of such uses, to allow application of new techniques and technology of site and building design and location; this for the purpose of achieving economies in land usage, maintenance, and street and utility systems while providing for attractive open areas, safe circulation, and general well-being of the inhabitants.

(1) Applicability of PUD Regulations. A PUD may be developed in any district provided that the uses permitted and density requirements of the district allow the development and the PUD plan elements are approved by the planning commission. Residential, commercial, public, semi-public, or industrial uses, or combinations of these uses where district or special regulations permit, may be developed under the PUD concept. Cluster type subdivisions and condominiums, townhouses, multi-dwelling units, rental developments, multi-use parks, travel trailer parks, and multi-use or ownership developments shall be considered as PUD's for the purpose of this ordinance.

(2) Relationships of PUD Regulations to District and Site Plan Regulations. Unless specifically altered by any provision of this section, the use and development regulations of Sections 601 through 609, Sections 310 and 311, or any other applicable provision of this ordinance shall apply to the development of a PUD.

(3) General Requirements. All PUD developments shall comply with the following requirements.

(a) Minimum Site. No PUD shall have an area less than that required by the planning commission as adequate for the proposed project; however, the minimum site shall not be less than the minimum lot size required in the district in which the proposed project is to be located.

(b) Structures and Open Space. The planning commission shall require structures and open space to be arranged on the site in such a way that adjacent uses will not be adversely affected.

(i) Where feasible, the highest height and intensity of uses shall be toward the interior of the projects.

(ii) No freestanding building shall be located closer than twenty (20) feet to any other freestanding building.

(iii) Minimum setback requirements for lots as established in Chapters 6 and 7 may be altered upon approval of the planning commission; except that, in no case shall the setbacks from any exterior project site side or rear property line be less than twenty-five (25) feet.

(iv) Landscaping/buffering requirements, as contained in Sections 310 and 311 and Chapter 6, shall be applied to PUD developments; except that, the planning commission may require additional landscape materials or structures where it is deemed to be in the public interest to do so.

(4) Open Space Requirements. Preservation, maintenance, and ownership of open space areas and facilities shall be accomplished by one or more of the following methods, and shall be established in an appropriate legal manner.

(a) Dedication to and acceptance by the public as part of a governmentally administered park and open space system.

(b) A property owners association.

(c) The developer or management authority of the PUD.

(5) Parking and Access Control Requirements. The provisions of this ordinance relating to vehicular access and parking (Sections 302 through 307) shall be adhered to; except that, the planning commission may alter these requirements in instances in which a superior design alternative is presented which will not be detrimental to the public interest or in conflict with the intent of this ordinance.

(6) Density Requirements for Residential PUD. The density (units per gross acre) of dwelling units in a PUD shall be no greater than that allowed in the zoning district within which a PUD is located. The open spaces around public structures, such as schools and churches may be included in the gross acreage of the site for the purpose of calculating the number of residential units that are allowed within a PUD.

(7) Signs. The number, size, type, and placement of signs within PUDs shall be governed by the applicable provisions of Section 309 of this ordinance.

(8) Street and Utility Construction Standards. Public and common ways for pedestrian and vehicular circulation shall be developed in relationship to other existing or planned streets and ways and with the Newport Major Road Plan. Whether or not the subdivision of property is proposed within a PUD, all project street and way improvements shall comply with the construction standards set out in the subdivision regulations. Due to the uniqueness of each PUD, the owner/developer of a PUD may request slight adjustments from widths of streets, ways, utility easements, curbing, and similar standards set out in the subdivision regulations; and, upon a determination of good cause being shown for such adjustments, the planning commission may permit changes or alterations in standards, provided the spirit and intent of this section can be preserved.

(9) Plan Preparation and Review Process. (a) PUDs Requiring The Subdivision of Property. In PUDs in which property is divided for the purpose of sale or rental, such as a subdivision or mobile home park, the following requirements for PUD plan preparation shall apply:

(i) Preliminary PUD Plan. Prior to submitting a preliminary subdivision plat for review, a preliminary PUD plan shall be submitted to the planning commission which shall include the following: the general location of buildings and uses, general circulation patterns, open space and recreation areas, parking areas, ingress/egress points, sketch elevations and drainage, the boundary dimensions, overall density of development, public uses, landscaping concepts, zoning classification, and other information deemed pertinent by the planning commission. The approved preliminary PUD plan shall serve as the plan upon which the final PUD plan and preliminary subdivision plat are based. Approval of a preliminary PUD plan shall lapse twelve (12) months from the date it was approved.

(ii) Final PUD Plan/Preliminary Subdivision Plat. In addition to meeting the applicable provisions of the subdivision regulations regarding preparation of a preliminary plat, the final PUD plan shall include detailed architectural/engineering plans for: utilities, vehicular and pedestrian circulation systems, location of all structures, topographic intervals at no less than five (5) feet, minimum elevations, and grading, the physical relationship of uses, parking areas, open space and recreation areas, landscaped areas, buffer or screening materials and locations, areas proposed for dedication as parks, ways, or places, final drafts or legal documents, and other information deemed pertinent by the planning commission. Upon approval of the final PUD plan and the preliminary subdivision plat by the planning commission,

development may commence with the installation of public improvements. No lots, however, shall be sold until final subdivision plat approval has been granted by the planning commission with all required improvements having either been installed or appropriate security posted for the installation of such improvements.

(b) **PUDs Not Requiring The Subdivision of Property.** In PUDs in which no individual parcel of property is owned or rented, such as condominium, apartment, commercial, or industrial PUDs, and similar uses, the following requirements for PUD plan preparation apply:

(i) **Preliminary PUD Plan.** A concept plan containing the following information shall be submitted to the planning commission for review: the general location of buildings and uses, general circulation patterns, open space and recreation areas, parking areas, ingress/egress points, sketch elevations and drainage, the boundary dimensions, overall density of development, public uses, landscaping concepts, zoning classification, and other information deemed pertinent by the planning commission. The approved preliminary PUD plan shall serve as the plan upon which the final PUD plan is based. Approval of a preliminary PUD plan shall lapse twelve (12) months from the date it was approved.

(ii) **Final PUD Plan.** Following approval of a preliminary PUD plan, the developer may proceed to prepare a final PUD plan which shall include detailed architectural/engineering plans for: utilities, vehicular and pedestrian circulation systems, location of all structures, topographic intervals at no less than five (5) feet, minimum elevations, and grading, the physical relationship of uses, parking areas, open space and recreation areas, landscaped areas, buffer or screening materials and locations, areas proposed for dedication as parks, ways, or places, final drafts of legal documents, and other information deemed pertinent by the planning commission. Upon approval of the final PUD plan, a special conditions permit may be issued.

(10) **Staging of Development.** The PUD applicant may elect to develop the site in successive stages. The stages and expected development periods shall be shown on the preliminary PUD development plan. However, each stage given final PUD approval must be substantially complete within itself. The planning commission may also require the development of a PUD project in stages if public facilities are not adequate to handle the entire development initially.

(11) **Permits.** The developer of a PUD shall be entitled to receive appropriate development permits following approval of the final PUD plan and the preliminary subdivision plat, where applicable. However, none of these permits shall be issued until the planning director receives a PUD plan which

bears the signed certificates of approval and of application and agreement (See Appendix C for examples).

(12) Changes and Modifications. A PUD project may be changed or modified under conditions established for minor changes and major changes.

(a) Minor changes. The planning commission may approve changes in minor shifts of building locations proposed streets and ways, utilities and easements, recreation and open space areas or other features on the approved plan. However, these changes shall not increase densities, change exterior boundary lines, change uses, materially change location or amount of land devoted to specific uses, or significantly change the exterior features or appearance of buildings and uses shown on the approved plans.

(b) Major changes. All changes other than those established as minor shall be considered as major changes to the PUD plan and shall require a new plan submission in accordance with the procedures and requirements for approval of a PUD plan.

309. Signs. The purpose of this article is to regulate all exterior signs, so as to protect property values, the visual character, and the public health, safety and welfare of Newport. Signs are deemed to be an accessory and incidental use to the land or building in which they identify or advertise for a use thereon, and is intended that such signs will be appropriate and adequate, but not excessive, in performing their identification or advertising function. All new signs erected, constructed, or placed upon any property or building within the city shall conform to the provisions of this section. In addition, this article enables the fair and consistent enforcement of these sign regulations under the zoning authority of the City of Newport.

(1) Definitions. For the purposes of the chapter, the following definitions shall apply:

(a) Abandoned Sign. Means a permitted sign that was erected on the property in conjunction with a particular use, that use having been subsequently discontinued for a period of 30 (thirty) days or more, or a permitted temporary sign for which the permit has expired.

(b) Animated Sign. Means any sign or permanent structure that uses movement, projection, or change of lighting or other electrical impulses to depict action or create a special effect. Variable display signs, beacons, and moving message boards are considered to be animated signs under this chapter.

(c) Banners, Pennants, Festoons and Balloons. Means any sign of fabric or other flexible material that is permanently mounted to a pole, enclosed in a frame, or otherwise mounted to allow movement caused by wind. Flags shall not be considered as banners under this chapter.

(d) Canopy Sign. (see Wall Sign)

(e) Commercial Message. Means any sign wording, logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial activity.

(f) Construction Sign. Means any sign, whose message is limited to the name and use of the building being constructed, which may include the names of the architects, engineers, contractors, and other persons involved with the construction project.

(g) Dilapidated Sign. Means any sign that is structurally unsound, has defective parts, or is in need of painting or other maintenance.

(h) Directional Sign. Means a permanent sign erected for or by a public entity for purposes of identification, direction, or public safety.

(i) Existing Sign. Means any sign that was erected, mounted, or displayed prior to the adoption of this chapter.

(j) Franchise Sign. Means a company, corporation, or franchise that has specific or standard sign age for national logos or signs. Franchise signs must also comply with sign regulations.

(k) Freestanding Sign. Means any sign supported by structures or supports that are anchored in the ground and that are independent of any building or other structure.

(l) Height Clearance. Means the perpendicular distance from the graded ground surface to the bottom edge of any freestanding sign that is not classified as a ground or monument sign.

(m) Height of Sign. Means the vertical distance from normal grade to the highest point of the sign. Any berming, filling, or excavating solely for the purpose of locating the sign shall be included as part of the sign height.

(n) Illegal Sign. Means any sign that does not have a valid permit from the city, is not a lawful non-conforming sign, and is not exempt from the permit requirement established within this chapter.

(o) Incidental Sign. Means any sign, generally informational, that has a purpose secondary to the use on the lot on which it is located, such as “no parking”, “entrance”, “loading only”, etc. No sign with a commercial message, symbol, or service shall be considered incidental.

(p) Ingress/Egress Sign. Means a sign displaying the direction of ingress or egress on a given site, such as “in”, “out”, “one way” etc.

(q) Marquee. Means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather. A marquee is characteristically used to mark the entrance to a theater or cinema.

(r) Master Identification Sign. Means a wall sign identifying all of the businesses within a single building or structure.

(s) Menu Board. Means a structure primarily designed for the display of a menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant utilizing drive-through service.

(t) Monument Sign. Means a freestanding sign attached to the ground, which incorporates a design and materials complimentary to the architectural theme of the building on the same property.

(u) Mural Sign. Is a scene or form of artwork without wording that is painted or affixed onto a structure. The Newport Regional Planning Commission must approve this type of sign.

(v) Nonconforming (Sign or Sign Structure). Means any existing permanent sign or sign structure which does not conform to the provisions of this chapter, but was erected pursuant to a valid permit from the city and complied with the sign regulations in effect at the time it was erected.

(w) Off-Premise Sign. Means a sign that directs attention to a business, commodity, or service offered at a location other than the premises on which the sign is erected. Any sign that is not an on-premise sign as defined herein shall be considered an off-premise sign.

(x) On-Premise Sign. Means a sign that directs attention to a business, commodity, or service offered located on the premises on which the sign is erected. For the purpose of this chapter, common access easements, common reserved areas, or common open space shall be considered as any of the served lots.

(y) Painted Wall Sign. Means any sign or display without wording painted directly on any exterior surface, exclusive of window or door glass areas.

(z) Pole (or Pylon) Sign. Shall mean any freestanding sign more than (4) four feet in height that does not meet the definition of a monument, ground, or portable sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground.

(aa) Political Preference Sign. Means any temporary sign supporting a political candidate, stating a position regarding a political issue or similar purpose. Any political preference sign shall have a name (person, business, or organization) and address on to the sign.

(bb) Portable Sign. Means any sign designed or intended to be readily relocated, and not permanently affixed to the ground or to a structure. Portable signs include such signs as sidewalk signs, A-frame sign or any sign attached to or painted on a vehicle or trailer parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. For the purpose of this chapter, portable signs shall not be considered permanent signs. Real estate signs and other temporary signs that are otherwise provided for in

this chapter shall not be considered portable signs for the purpose of this chapter.

(cc) **Product Sales Sign.** Means a sign that advertises a product or item that is being sold on the premises. Product sales sign shall only display the product name and sale price.

(dd) **Projecting Sign.** Means any sign, other than a wall sign, whose leading edge extends beyond the building or wall to which it is affixed, forming an angle with said building or wall.

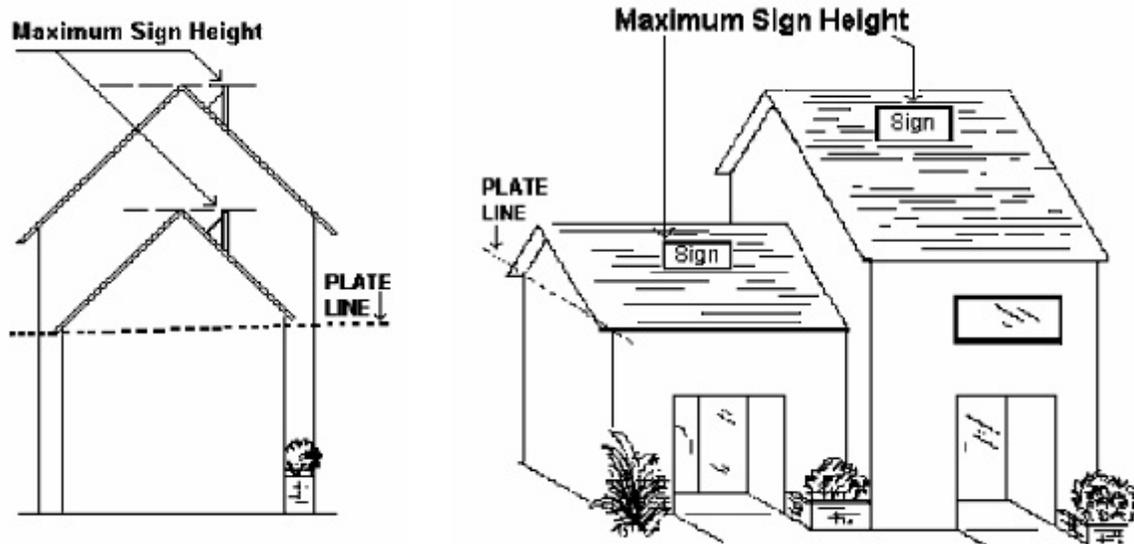
(ee) **Public Right-of-Way/Public Way.** Means a strip of ground dedicated for public use, usually for Public Street, public infrastructure, and/or waterway. For the purpose of this chapter, such right-of-way shall be considered to extend a minimum of ten (10) feet from the edge of pavement, or to the dedicated right-of-way boundary, whichever is further.

(ff) **Real Estate Sign.** Means a temporary sign erected by the owner, or agent, advertising the real property upon which the sign is located for rent, lease, or sale.

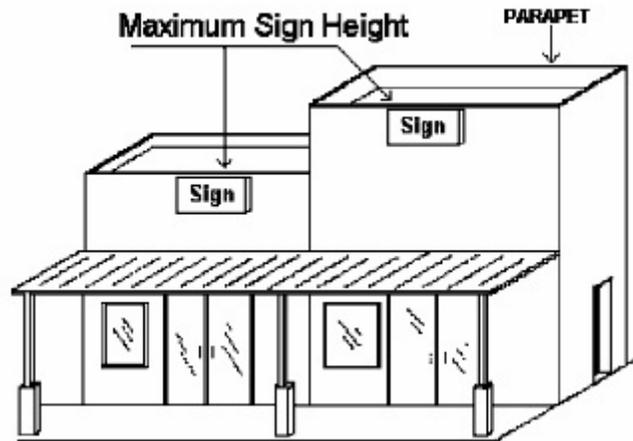
(gg) **Roof Line.** Means the highest horizontal point of the wall visible to the public, excluding any architectural feature that extends above such apparent horizontal roofline if such feature is fully enclosed and considered an integral part of the occupied space, such as an atrium or high ceiling.

(hh) **Roof Sign.** An attached or wall sign extending above the plate line or on the parapet of a building or structure is allowed; any sign or part of sign beyond the highest point or edge of the roof is prohibited. See example A. below.

Example A. - ROOF SIGN



ROOF SIGN (Cont.)



(ii) Shopping Center. Is defined as two (2) or more tenants occupying one (1) or more structures on a single parcel of land or a group of adjoining parcels, that is designated to integrate the building fronts, and parking areas, signs and ingress/egress to operate as one (1) unit. Shopping Centers not designed to be operated as an integrated single unit will be determined by the Board of Zoning Appeals.

(jj) Sign. Means any display of any letter, numeral, figure, emblem, picture, outline, character, spectacle, announcement, or anything in part or in combination by any means whereby the same are made visible to the eye and for the purpose of attracting attention outdoors to make anything known, whether such display be made on, attached to, or as part of a structure erected for the purpose, or on, attached to, or as a part of any other structure, surface, or thing, including but not limited to the ground or any rock, tree or other natural object, which display is visible beyond the boundaries of the lot or parcel of property on or over which the same is made.

(kk) Sign Area. Means the square foot enclosed by the perimeter of the sign face. With the respect to signs that are composed of individual symbols, letters, numbers, figures, illustrations, messages, forms, or panels, sign area shall be considered to include all such components together with their background, surrounding frame, and any “cutouts” or extensions. The sign area shall not include any support structure bracing.

(ll) Sign Content. Means the sign shall be limited to identifying or advertising the property, and individual enterprises, the products or services, the entertainment available on the same property where the sign is located, or public service information.

(mm) Sign Face. Means the entire area of a sign upon, against, or through which copy is placed.

(nn) **Sign Structure.** Means any structure that supports, has supported, or is capable of supporting a sign, including any decorative cover for the sign structure. This definition shall not include a building, fence, wall, or earthen berm.

(oo) **Snipe Sign.** Means any sign that is affixed by any means to trees, utility poles, fences, or other objects, where the message appearing thereon is not applicable to the present use of the premises upon which the sign is located.

(pp) **Special Event Sign.** Means any sign, including a banner, which carries a message regarding a special community event or function associated with a recognized charitable or civic organization.

(qq) **Subdivision Sign.** Means any sign located at the entrance to subdivision, whether it is residential, commercial, or industrial, as defined in this chapter.

(rr) **Temporary Sign.** Means any sign that is intended for temporary and a limited time period, as permitted by this chapter.

(ss) **Two-Sided Sign, Two Sign Faces.** Means any sign constructed on a single set of supports, with messages visible on either side, or a “V” type sign with a common support in the center of the “V”.

(tt) **Wall Sign.** Means any sign, other than a projecting sign, that is attached to or painted on any wall of any building, awning, or canopy.

(uu) **Window Sign.** Means any sign, graphic or interior design element placed inside the window pane, used to advertise, announce, or identify a person or entity, or to communicate information of any kind, or to draw visual attention to the business or use, and which is visible from the public right-of-way. For purposes of this chapter, window signs may be permanent or temporary and subject to the applicable provisions herein.

(2) **Applicability; Effect.** A sign may be established or maintained in the city only in conformance with the provisions of these regulations. The effect of this article, as more specifically set forth herein, is to:

(a) Establish a permit system to allow a variety of sign types in commercial zones, and a limited variety of signs in other zones, subject to the standards and permit procedures of this article.

(b) Allow certain small, unobtrusive signs incidental to the principle use of a site without a permit when in compliance with the requirements of this article.

(c) Provide for temporary signs in limited circumstances.

(d) Prohibit all signs not expressly permitted by this article.

(e) Provide for enforcement of the provisions of this article.

(3) **General Provisions.** (a) **Plans Required.** The planning director shall be provided with plans and specifications identifying the location,

type, and design of any sign, which requires a permit under the provisions of this section.

(b) Permit Required (i) Unless specifically exempted by this section, it shall be unlawful to erect, substantially modify or relocate any sign without first obtaining a sign permit. When a sign permit has been issued, it shall be unlawful to substantially modify the sign without prior approval from the Building Inspections Department. A written record of such approval shall be entered upon the original permit application and maintained in the permit record.

(ii) A sign permit will not be required for the placement of one (1) temporary commercial freestanding sign, if a temporary building permit has been issued. The temporary sign shall be placed upon the premise's address by the building permit and removed when the temporary building permit expires. No more than one (1) temporary sign will be allowed.

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

(ii) Portable signs.

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

(iv) Any sign which by reason of its location, position, size, shape, or color may obstruct, impair, or otherwise interfere with the view of, or be confused with, any traffic control sign or signal erected by a public authority. To these ends, no sign shall use the words "slow", "stop", "caution", "yield", "danger", "warning", or "go" in a manner that misleads, confuses, or distracts a vehicle driver.

(v) Signs on public property including utility poles, except those erected by an authorized public entity.

(vi) Signs and landscaping around signs that create a sight visibility problem for public safety and health.

(vii) No more than one (1) freestanding sign per property where the business is being conducted, unless the property fronts more than one (1) primary or secondary parallel or intersecting roads, which would allow an additional freestanding sign per primary or secondary road frontage. No more than one (1) freestanding sign per road frontage. Enter and exit signs shall not be included in the total number of signs allowed.

(viii) Product Sales signs that are not affixed onto the building where the product is being sold. Product Sales signs shall be temporarily fixed to the building in a proper and neat fashion as determined by the codes official. Product advertisement signs shall be temporary, and shall not be displayed for more than two (2) weeks.

(ix) All signs which are not expressly permitted by this ordinance or any other ordinance of the city.

(d) Non-conforming Signs. (i) The utilization of a nonconforming sign and/or sign structure, as defined herein, may continue subject to the conditions and requirements noted below. When the use of a property changes (including but not limited to the redevelopment of the site or a change in the use or name of the business(es), the sign on that property must be brought into compliance with the provisions of this chapter.

(ii) No alterations to a nonconforming sign/sign structure shall be permitted except minor repairs and maintenance. Any structural or other substantial maintenance or improvement to a nonconforming sign (except for painting or refinishing the surface of the existing sign face or sign structure so as to maintain the appearance) shall be deemed an abandonment of the nonconforming status, shall render any prior permit void and result in there classification of such sign as an illegal sign.

(iii) In the event that a non-conforming sign is reconstructed as the result of damage from any cause, or to correct deterioration and dilapidation to the extent of (50%) fifty percent of its fair market value, said signs shall be permitted to exist in nonconforming locations only to the extent that the surface area for message display be reconstructed in conformity with the provisions of this chapter.

(e) Signs Permitted in all Zoning Districts. The following types of signs are permitted in all districts, subject to the conditions set out below and other applicable provisions of this ordinance. Such signs do not require a permit.

(i) Political Campaign Signs. One (1) sign per candidate per premise, each sign not to exceed four (4) square feet in residential districts or sixteen (16) square feet in all other districts, may be erected on private property no more than thirty (30) days prior to the election. The property owner shall remove all campaign signs within seven (7) days after the results of an election are certified.

(ii) Temporary Special Event Signs. Signs not exceeding thirty-two (32) square feet that announce a special event sponsored by a civic, philanthropic, educational, or religious organization

may be erected on private property no more than thirty (30) days prior to the event. The property owner shall remove all special event signs within seven (7) days of the conclusion of an event. A downtown streaming banner identifying a special event being held in Cocke County must be approved by the Newport Regional Planning Commission with the continuance of approval from the property owners that are being affected. The streaming banner location is located at 145 E. Broadway.

(iii) Real Estate Sale/Lease Signs. Maximum signage up to nine (9) square feet in residential zones or thirty-two (32) square feet in commercial and industrial zones, advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed are permitted. Such signs shall be removed within fourteen (14) days of the sale, rental, or lease.

(iv) Residential Name/Address Signs. For each single family dwelling unit, one (1) nameplate indicating name, address, house number, home occupation, or an announcement of space for boarders or roomers if applicable, limited to two (2) square feet in area, is permitted.

(f) Signs Requiring a Permit. (i) Residential Districts.

(A) For subdivisions, and PUD's (including multi-family developments and mobile home parks) and all non-residential uses, total sign area shall not exceed one hundred (100) square feet in area and twelve (12) feet in height, is permitted. Individual buildings within a PUD total signage shall not exceed forty (40) square feet in area.

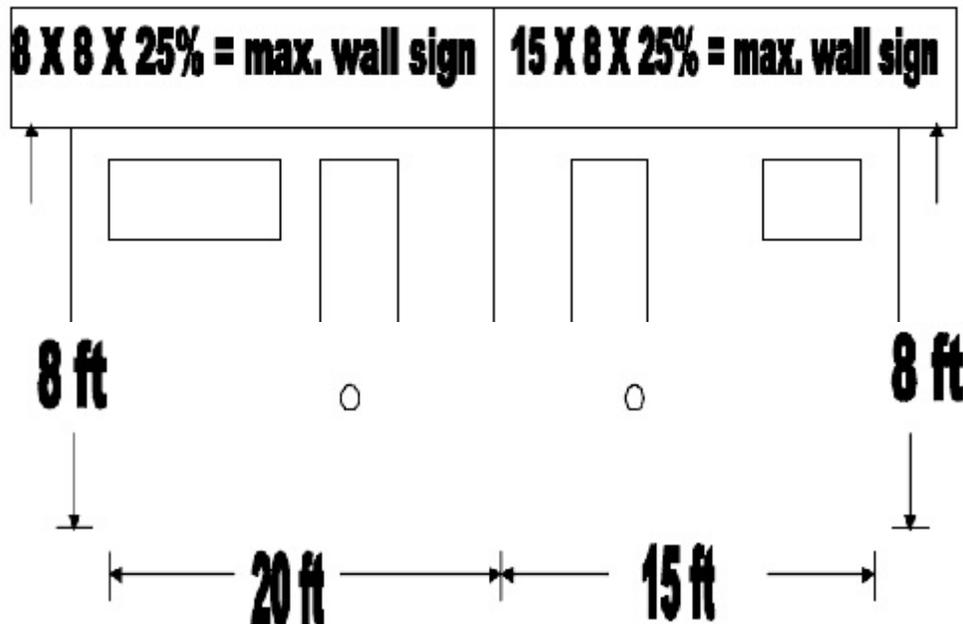
(B) While under development, a subdivision or PUD may have one (1) temporary sign that shall not exceed forty (40) square feet in area and twelve (12) feet in height. Such sign is permitted in addition to any permanent identification sign, but shall be removed after two (2) years or when ninety (90%) percent of the project is sold, whichever occurs first.

(ii) Commercial Districts. (A) Wall signage for a Single Commercial Occupant not located in a Shopping Center, Mall, or commercial PUD's shall not exceed one hundred (100) square feet in area, except for occupants building that is larger than twenty-five thousand (25,000) square feet, which would be allowed two hundred-fifty (250) square feet of wall signage. Freestanding sign shall not exceed one hundred-fifty (150) square feet in area. Sign height shall not exceed thirty (30) feet. Enter and exit signs not exceeding three (3) square feet, height not exceeding three (3) feet, and

does not obstruct clear visibility to vehicles exiting the premises.

(B) Shopping Centers, malls, and commercial PUD's wall signage for each occupant or business shall not exceed or cover over twenty-five (25%) percent of the wall facing. Wall facing calculations are estimated by multiplying a standard ceiling height of eight (8) feet by sidewall-to-sidewall width. See example B. below. Maximum wall signage shall not exceed three hundred (300) square feet. Total square feet allowed for a freestanding sign shall not exceed three hundred-fifty (350) square feet and the sign height shall not exceed thirty (30) feet in height. Enter and exit signs shall not exceed three (3) square feet and shall not obstruct clear visibility for vehicles exiting the premises, and exceed in three (3) feet in height. Shopping Centers not designed to be operated as an integrated single unit will be allowed additional freestanding signs. The Board of Zoning Appeals will determine if the commercial center is designed to operate as a single unit, and will determine the location and number of freestanding signs.

Example B



(C) In the C-3 Interstate Highway Business District each business shall be allowed in addition to the normal business signs, one (1) highrise freestanding interstate sign not to exceed one hundred (100) feet in height nor three hundred-fifty (350) square feet in sign area.

(iii) Industrial Districts. (A) Maximum identification sign area permitted for separate establishments on individual lots located outside a PUD, shall be one hundred and seventy-five (175) square feet per separate industrial use; except that no ground sign or wall sign shall be greater than one hundred-fifty (150) square feet in area.

(B) In industrial PUD's or buildings housing more than one (1) establishment, each establishment may have one (1) ground sign per establishment not to exceed one hundred (100) square feet and a wall or other type signs so long as the total sign area for each establishment does not exceed one hundred-fifty (150) square feet. Enter and exit signs not exceeding three (3) square feet and height not exceeding three (3) feet and does not obstruct clear visibility to vehicles exiting the premises.

(C) Industrial park entrance signs shall be limited to one (1) major directory sign not to exceed two hundred (200) square feet.

(iv) Administration. The following shall apply in the administration of these sign provisions:

(A) Fees and inspections: Fees may be charged for sign permits and for annual inspection. Permits for signs shall become null and void if the sign is not installed within (6) six months.

(B) Removal or repair of signs: Any sign which is erected not in conformance with this chapter, or any sign which by reason of improper maintenance, abandoned, or disrepair becomes nonconforming or unsafe, shall be removed or repaired pursuant to the provisions of all building codes as enforced by the building inspections department, and all amendments thereto, as incorporated by reference in the code of ordinances of the City of Newport, Tennessee.

310. Site Plan Regulations for Commercial, Multi-Family, Public, and Semi-Public Uses. It is the general purpose and intent of this section to require site plans for all new developments or redevelopments of commercial, multi-family, public, or semi-public uses to provide for a lessening of traffic congestion and for securing adequate light, air, and aesthetic conditions for

residents of the city. These plans shall be approved by the planning commission as consistent with this ordinance and with the comprehensive planning program of the town prior to the issuance of grading or building permits.

Site plans for small additions to existing buildings shall be exempt from review when, in the opinion of the planning director, the addition will not adversely affect the general purpose and intent of these regulations.

Shopping centers, mobile home parks, travel trailer parks, apartments, condominiums, and other similar types of projects shall be developed under the provisions of the Planned Unit Development (PUD) Regulations as set out in Section 308; except that, unless specifically altered by the provisions of Section 308 or the use and development regulations contained in Sections 601 - 609 or any other applicable provision of this ordinance, all provisions relating to plan preparation and site development contained in this section shall also apply to the plan preparation and site development of all PUDs.

In accordance with the provisions of Tennessee Code Annotated, § 13-4-104, site plans for any public use including, but not limited to, schools, parks, streets and highways, public buildings, and utilities, shall be submitted to the planning commission for review, and shall be prepared in accordance with the provisions of Sections 308, 601 - 609, and this section, as may be applicable.

A site plan shall set forth the proposed development of the total land tract and shall meet the following regulations:

(1) General Provisions. (a) All site plans shall be prepared and certified by a licensed engineer, landscape architect, architect, and/or surveyor, as may be appropriate, and in accordance with state law regarding the practice of these professions. Drawings shall be at a scale of not less than 1" = 20' for small tracts and 1" = 50' for large tracts.

(b) All site plans shall show: (i) Topography of existing and finished grades.

(ii) Location of all land subject to flooding.

(iii) Dimensions and calls of all property lines.

(iv) North point, scale, acreage of site, and location map.

(v) Location of all existing and proposed structures (including signs), street rights-of-way, sidewalks, and easements.

(vi) Dimensions of all existing and proposed structures.

(vii) Plans for vehicular and pedestrian circulation, utilities, solid waste disposal, landscaping and open space, signs, off-street parking, and storm water drainage.

(2) Open Space and Landscaping Plan. To obtain sufficient space between uses and buildings for adequate light, air, privacy, and amenities, the following requirements for open space and landscaping are established:

(a) Landscaping shall mean planting of grass, trees, shrubs, or other comparable surface cover or decorative plazas and/or pools. Where existing landscape features exist on site which can meet the purpose of this section, all or part of such features may be used to meet the

requirements of this section upon the approval of the planning commission.

(b) All developments shall meet the minimum yard (open space) requirements established in Chapters 6 and 7.

(c) The setback space between a public street and parking areas shall be landscaped with berms and/or appropriate landscape plants which shall be maintained in a healthy, growing condition through a permanent maintenance program.

(3) Signs. Sign size and placement shall be governed by the provisions of Section 309.

(4) Off-Street Parking. The off-street parking and loading/unloading areas, points of ingress/egress, and driveways shall be developed in accordance with the provisions of Sections 302 through 306.

(5) Waste Disposal. All waste disposal facilities shall be screened by fencing, walls, or evergreen plant materials in such a way that they are not visible from any public street or adjoining properties.

(6) Stormwater Drainage. A certified plan for stormwater drainage shall be included with the site plan which identifies all easements, drainage structures including sizes/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year storm shall be calculated for pre-development and post-development. The amount of runoff shall not be increased, and shall be accommodated on site.

(7) Site Improvements Bond. Prior to the issuance of a certificate of occupancy, the planning director shall make a determination regarding whether or not all site improvements, as set out in this ordinance and the approved site plan, have been properly made or installed. If not, prior to issuing a certificate of occupancy, the planning director and city manager shall determine the amount, form, and term of surety that must be established and must secure such guarantee for the purpose of ensuring the timely completion of the required site improvements.

(8) Issuance of Building Permits. No building permit shall be issued until the planning director receives a site plan which bears the signed certificates of site plan approval and of application and agreement (See Appendix D).

(9) Expiration of Approved Site Plans. Approval of a site plan shall expire six (6) months after the date of its approval unless a building permit has been issued and substantial progress has been made toward completion of the project.

311. Site Plan Regulations for Industrial Uses. It is the intent of this section to require site plans for all new industrial uses as well as any non-industrial uses which are permitted in the industrial districts of the town and shall apply to the expansion or redevelopment of any existing uses within

the town's industrial districts. The purpose of these regulations is to protect the public health, safety, and welfare of the citizens of Newport through a lessening of traffic congestion, the securing of adequate light and air, the preservation of aesthetic qualities, and the protection of property. These site plans shall be reviewed and approved by the planning commission as being consistent with the intent of this ordinance and the comprehensive planning program of the city prior to the issuance of any grading or building permit.

Industrial and/or commercial PUDs located in any industrial zoning district shall be developed under the provisions of the Planned Unit Development (PUD) Regulations as set out in Section 308; except that unless specifically altered by the provisions of Sections 308 or the use and development regulations contained in Sections 601 through 609 or any other applicable provision of this ordinance, all provisions relating to plan preparation and site development contained in this section shall also apply to the plan preparation and site development of all PUDs.

In accordance with the provisions of Tennessee Code Annotated, § 13-4-104, site plans for any public use including but not limited to schools, parks, streets and highways, public buildings, and utilities, shall be submitted to the planning commission for review and shall be prepared in accordance with the provisions of Sections 308, 601 - 609, and this section, as may be applicable.

(1) General Provisions. (a) All site plans shall be prepared and certified by a licensed engineer, landscape architect, architect, and/or surveyor, as may be appropriate, and in accordance with state law regarding the practice of these professions. Drawings shall be at a scale of not less than 1" = 20' for small tracts and 1" = 50' for large tracts.

(b) All site plans shall show: (i) Topography of existing and finished grades.

(ii) Location of all land subject to flooding.

(iii) Dimensions and calls of all property lines.

(iv) North point, scale, acreage of site, and location map.

(v) Location of all existing and proposed structures (including signs), street rights-of-way, sidewalks, easements, and covenants.

(vi) Dimensions of all existing and proposed structures.

(vii) Plans for vehicular and pedestrian circulation, utilities, solid waste disposal, landscaping and open space, signage, off-street parking, and storm water drainage.

(2) Open Space and Landscaping Plan. To obtain sufficient space between uses and buildings for adequate light, air, privacy, and amenities, the following requirements for open space and landscaping are established:

(a) Landscaping shall mean planting of grass, trees, shrubs, or other comparable surface cover or decorative plazas and/or pools. Where existing landscape features exist on site which can meet the purpose of this section, all or part of such features may be used to meet the

requirements of this section upon the approval of the planning commission.

(b) To minimize adverse visual and environmental impacts, no accessory buildings shall be permitted in areas established for open space.

(c) All site plans shall meet the minimum yard requirements (open space) established in Chapter 6 and 7; except that, on sites adjoining residential districts, the following additional development standards shall apply:

(i) The requirements for the yard (open space) area shall be one hundred (100) feet. Whenever highly combustible, flammable, or explosive materials or any other materials that have inherent characteristics that constitute a hazard to life or property are to be used on such sites, the planning commission may require additional yard area. Development within required yard areas adjacent to residential districts shall be subject to the following requirements:

(A) Off-street parking areas shall be setback no less than fifty (50) feet from the district boundary.

(B) At least the first fifty (50) feet of required yard area shall be appropriately landscaped by use of berms and grass, trees, shrubs, or other appropriate plants.

(C) No solid or liquid waste disposal areas shall be allowed in the required yard area, with the exception of solid waste dumpster facilities for non-industrial solid waste products.

(d) The setback space between the public street and parking areas shall be landscaped.

(i) Where possible berming shall be installed to screen parked cars and where berms are not used screening shall be achieved through use of trees and shrubs.

(ii) All landscaping shall be maintained in a healthy growing condition through a permanent maintenance program.

(3) Signs. Sign size and placement shall be governed by the provision of Section 309.

(4) Off-Street Parking. The off-street parking and loading/unloading areas, points of ingress/egress, and driveways shall be developed in accordance with the provisions of Sections 302 through 306.

(5) Emissions. To provide for the protection of the environment and the citizens of Newport, a plan for emission control shall meet the following requirements:

(a) No use shall create noise, vibrations, dust odor, or fumes which are in any way harmful to endanger the health, safety, and general welfare of the public.

(b) Uses creating undue glare shall provide shielding so that glare cannot be seen off the site.

(c) In the event that emission controls are questionable, the planning commission may require certification of the proposed controls by an environmental engineer or other appropriate expert.

(d) If the town determines a violation of these emission standards is occurring, it shall be authorized to take whatever action it deems appropriate to safeguard the health, safety, and general welfare of the public. The burden of proof that no such violation is occurring or has been abated shall rest solely with the industrial use involved.

(6) Waste Disposal. (a) No waste disposal facilities, whether they be for the disposal of industrial or non-industrial solid waste, shall be allowed within any front yard.

(b) All waste disposal facilities shall be screened by fencing, walls, or evergreen plant materials in such a way that they are not visible from any public street or adjoining properties.

(7) Stormwater Drainage. A certified plan for stormwater drainage shall be included with the site plan which identifies all easements, drainage structures including sizes/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year storm shall be calculated for pre-development and post-development. The amount of runoff shall not be increased, and shall be accommodated on site.

(8) Site Improvements Bond. Prior to the issuance of a certificate of occupancy, the planning director shall make a determination regarding whether or not all site improvements, as set out in this ordinance and the approved site plan, have been properly made or installed. If not, prior to issuing a certificate of occupancy, the planning director and city administrator shall determine the amount, form, and term of surety that must be established and must secure such guarantee for the purpose of ensuring the timely completion of the required site improvements.

(9) Issuance of Building Permits. No building permit shall be issued until the planning director receives a site plan which bears the signed certificates of site plan approval and of application and agreement (See Appendix D).

(10) Expiration of Approved Site Plans. Approval of a site plan shall expire six (6) months after the date of its approval unless a building permit has been issued and substantial progress has been made toward completion of the project.

312. Temporary, Mobile, Factory-Built, or Factory Assembled Structures. It shall be unlawful to place any temporary structure, trailer, mobile structure (including, but not limited to: cars, vans, trucks, or buses), tents and tent-type structures, factory-built or factory assembled structures

designed for conveyance after fabrication, either on their own wheels, flatbed truck, or other trailers on any residential, commercial, or industrial lot within the town for the purpose of assembly, or for business, educational, hazardous, institutional, mercantile, residential, or storage occupancies, except as noted herein.

(1) Permitted Temporary, Mobile, Factory-Built, or Factory Assembled Structures. The following structures shall be allowed subject to the provisions of this and other applicable sections of this ordinance and upon obtaining the proper permits from the planning director.

(a) Mobile homes located in approved mobile home parks.

(b) Modular buildings for residential or nonresidential use installed on permanent concrete or masonry foundation as a finished building with permanent sewer or water connections. Such units shall be inspected at the point of manufacture and shall bear the insignia of approval of the Tennessee Department of Commerce and Insurance or other approved inspection agency, as provided for in Tennessee Code Annotated, title 58, chapter 36, part 3, Double-wide mobile homes, that have the same general appearance as site-built homes, may not be used for commercial purposes in the C-1, Central Business District.

(c) Temporary office and storage buildings located on approved construction sites provided they are removed upon completion of construction.

(d) Customary accessory storage buildings in approved residential locations. Temporary storage pods may be placed for ninety (90) days in a location approved by the Director of Planning.

(e) Tents used by a person, firm, corporation, or group as an assembly occupancy for the purpose of a religious meeting, festival, fair, circus, or carnival for a limited time not to exceed thirty (30) days with proper permit procedure followed; additional permits may be granted for up to ninety (90) days in one (1) calendar year.

(f) Tents or temporary buildings used to sell fresh produce locally grown in Cocke County during the growing season or Christmas trees during the holiday season.

(g) 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 infirm person that cannot safely care for himself. Proof shall include a written statement from the infirm's doctor attesting to inability to care for oneself. A temporary permit can be renewed for periods not exceeding a total of one (1) year. The Board of Zoning Appeals shall be authorized to extend this one (1) year limit due to extenuating circumstances presented before the Board.

(2) Replacement of Nonconforming Mobile Home Dwellings. See Section 301.4 of this ordinance.

(3) Establishment of New or Expansion of Existing Mobile Home and Travel Trailer Parks. Mobile home and travel trailer parks shall be considered PUDs and the establishment or expansion of these uses shall be subject to the provisions of Section 308 and other applicable sections of this ordinance.

313. Customary Home Occupations. The following uses shall be permitted as home occupations within all residential zoning districts, subject to the applicable provisions of the zoning districts and the limitations and requirements set out in Subsection 2 below. The home must be the primary residence of the property owner to qualify as a customary home occupation.

(1) Permitted Home Occupations. (a) Arts and crafts made by the owners of the premises.

(b) Professional offices for architects, real estate brokers, engineers and other contract workers whose businesses rarely require clients to visit the home.

(c) Tutorial instruction allowing two (2) pupils per session, except for music instruction which shall be one (1) student per session.

(d) Beauty/barber shops.

(e) Antique sales.

(f) Any other use which the Board of Zoning Appeals finds to be of similar character.

(2) Requirements/Limitations Regarding the Operation of Home Occupations.

(a) Location on Premises. A home occupation shall be conducted within a dwelling which is the bona fide residence of the principal practitioner or in any building accessory thereto which is normally associated with a residential use.

(b) Exterior Alterations. No alterations to the exterior appearance of the principal residential building or premises shall be made which changes the character thereof as a residence.

(c) Outdoor Display or Storage. No outside display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.

(d) Employees. No persons other than a member of the immediate family occupying such dwelling, and one (1) person not a member of such family, may participate in or be employed by such occupation.

(e) Level of Activity. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.

(f) **Traffic, Parking.** No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

(g) **Equipment and Production Processes.** No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or vocation not conducted for gain or profit, or machinery or equipment which is essential in the conduct of the home occupation; and, no equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

(h) **Signs.** No signs accessory to such home occupation shall be displayed except as permitted or authorized by Section 309.3.e.4.

314. Gasoline Service Stations. The following development standards shall apply to all gasoline service stations:

(1) Front yard setbacks for all structures except the principal building, shall be reduced to fifteen (15) feet.

(2) On all streets classified as major arterials on the official zoning map, no driveways shall be constructed within sixty (60) feet of an intersecting street right-of-way line.

CHAPTER 4

APPLICATION OF REGULATIONS

SECTION

- 401. Use
- 402. Street Frontage
- 403. Corner Lots
- 404. One Principal Building On a Lot
- 405. Reduction of Lot Size
- 406. Yard and Other Spaces
- 407. Conformity to Subdivision Regulations
- 408. Accessory Building and Use Regulations
- 409. Height and Density

401. Use. Except as herein provided, no building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

402. Street Frontage. No building shall be erected on a lot which does not abut on at least one (1) public street for at least forty (40) feet. Residential planned unit developments may be excluded from this provision through the plan approval process for planned unit developments. If an approved public street is inadequate to serve a proposed development, the developer may be required to improve the existing street to approved city standards.

403. Corner Lots. The minimum width of a side yard along an intersecting street shall be fifty (50%) percent greater than the minimum side yard requirements of the district in which the lot is located.

404. One Principal Building on a Lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot; except that planned unit developments may be excluded from this provision on the approval of the planning commission.

405. Reduction of Lot Size. No lot shall be reduced in area so that yards, lot width, building area, or other provisions of this ordinance shall not be maintained.

406. Yard and Other Spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building.

407. Conformity to Subdivision Regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Newport Regional Planning Commission and such approval entered in writing on the plat by the secretary of the commission.

408. Accessory Building and Use Regulations. Buildings and/or uses which are customarily incidental and subordinate in size and function to the principal use of a site are considered to be accessory buildings and/or uses and are permitted on the same lot with a principal use. The establishment of accessory buildings and/or uses shall be subject to the following provisions and other applicable provisions of this ordinance:

(1) **General Provisions.** (a) No accessory structure shall be occupied or used unless the principal structure to which it is accessory is occupied or being used.

(b) If an accessory building shares a structural wall with a principal building, it shall be deemed to be a part of the principal building and shall comply with the requirements of the ordinance applicable to a principal building, such as setback, height, etc.

(2) **Location.** (a) Residential districts. Accessory buildings not exceeding one (1) story or fourteen (14) feet in height, and occupying less than twenty (20%) percent of the required rear yard, may be located as close as ten (10) feet to the rear property line, except as may be provided for in Chapter 6. No accessory buildings or uses shall be permitted within any required front or side yard, except for such items as mail boxes, yard ornaments, and light fixtures located so as not to create a nuisance or safety hazard to neighboring property or the public.

(b) **Unenclosed Structures in Residential Districts.** Unenclosed accessory buildings and unenclosed additions to principal buildings may occupy a portion of the front, side or rear yards, but may not be closer than five (5) feet to a front lot line or closer than four (4) feet to a side or rear lot line, except as may be provided for in Chapter 6.

(c) **General Farming Uses in Residential Districts.** Accessory general farming structures shall not exceed thirty-five (35) feet in height and shall meet all yard setback requirements of a principal structure.

(d) **Business and Industrial Districts.** The location of accessory uses and structures shall be in accordance with the provisions of Sections 310 and 311 of this ordinance.

(3) **Off-Street Parking and Loading Facilities.** These facilities shall be located in accordance with the provisions of Sections 302 through 304.

(4) Signs. The size, type, and location of signs shall be governed by Section 309 and other applicable sections of the ordinance.

409. Height and Density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

CHAPTER 5

ESTABLISHMENT OF DISTRICTS

SECTION

501. Classification of Districts
502. Zoning District Boundaries

501. Classification of Districts. For the purpose of this ordinance, the City of Newport, Tennessee, is hereby divided into eleven (11) classes of districts as follows:

Residential	R-1	Low Density Residential
	R-2	Medium Density Residential
Medical/Residential	M-R	Medical/Residential
Professional/Residential	P-1	Professional/Residential
Commercial	C-1	Central Business
	C-2	General Business
	C-3	Interstate Highway Business
Industrial	M-1	Light Industrial
	M-2	Heavy Industrial
Agriculture	A-1	Agriculture

502. Zoning District Boundaries. The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of The City of Newport, Tennessee," dated April 30, 2007, and all amendments thereof, which is a part of this ordinance and which is on file in the office of the Director of Planning. Unless otherwise specifically indicated on the map, the boundaries of districts are lot lines or the center lines of streets or alleys or such lines extended, the corporate limit lines, or a line midway between the main track of a railroad or the center lines of streams or other water bodies. Questions concerning the exact locations of district boundaries shall be determined by the Board of Zoning Appeals.

CHAPTER 6

PROVISIONS GOVERNING USE DISTRICTS

SECTION

- 601. R-1 Low Density Residential District
- 602. R-2 Medium Density Residential District
- 603. M-R Medical/Residential District
- 604. P-1 Residential/Professional District
- 605. C-1 Central Business District
- 606. C-2 General Business District
- 607. C-3 Interstate Highway Business District
- 608. M-1 Light Industrial District
- 609. M-2 Heavy Industrial District
- 610. A-1 Agriculture District

601. R-1 Low Density Residential District. It is the purpose and intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements of the district are designed to protect the total characteristics of the district, to promote and encourage an environment for family life, and to restrict all business oriented activities.

In order to achieve the purpose and intent of the R-1 Low Density Residential District, as shown on the zoning map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

- (1) Single-family residences, except mobile homes.
- (2) Single-family and two-family (duplex) PUD's except mobile homes.
- (3) Customary home occupations as regulated in Section 313.
- (4) Publicly owned buildings and uses, following approval by the planning commission as required in Tennessee Code Annotated, § 13-4-104; schools offering general education; churches; and tennis clubs, country clubs, and other similar uses which are characteristically associated with ample open space areas and recreation or leisure activities, and are used for social purposes which restrict participation to members and guests only, provided that:
 - (a) A site plan prepared as regulated in Section 310 is reviewed and approved by the planning commission;
 - (b) The buildings are placed not less than forty (40) feet from side and rear property lines;
 - (c) There are planted buffer strips with a minimum of ten (10) feet in height along rear and side property lines;
 - (d) That access be restricted to streets classified as Level A, B, or C (See Appendix B) on the official zoning map; and

(e) Any outside lighting of courts, parking lots, or other facilities shall be designed and constructed in such a manner as to not cause inconvenience to other uses in the immediate area.

(5) Signs as regulated in Section 309.

(6) Customary accessory buildings as regulated in Sections 408 and 803.

(7) Access and parking as regulated in Sections 302 through 307.

(8) Setback and height requirements as regulated in Chapter 7.

602. R-2 Medium Density Residential District. It is the purpose and intent of this district to provide areas for higher density residential development plus open areas where similar development is likely to occur. When proposed uses are not allowed in the R-1 Low Density Residential District, but are adjacent to the R-1 Low Density Residential District, a buffer strip shall be planted and maintained.

In order to achieve the purpose and intent of the R-2 Medium Density Residential District, as shown on the Zoning Map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

(1) Any use and regulations in the R-1 Residential District.

(2) Residential planned unit developments, including mobile home parks as regulated in Sections 308 and 312.

(3) Bed and breakfast inns.

(4) Funeral homes; fraternal organizations; clubs not operated for profit; day care centers providing care and supervision for children, handicapped persons, or elderly for periods of less than twenty-four (24) hours; and similar uses as determined by the Newport Board of Zoning Appeals, provided:

(a) A site plan prepared as regulated in Section 310 is reviewed and approved by the planning commission;

(b) The buildings are placed not less than forty (40) feet from side and rear property lines;

(c) There are planted buffer strips with a minimum of ten (10) feet in height along rear and side property lines;

(d) Any outside lighting of parking lots or other facilities shall be designed and constructed in such a manner as to not cause inconvenience to other uses in the immediate area.

(e) That access be restricted to streets classified as Level A, B, or C (See Appendix B) on the official zoning map; and

(f) Existing buildings may be utilized provided that the provisions of this ordinance are met as closely as possible.

(5) Signs as regulated in Section 309.

(6) Customary accessory buildings as regulated in Sections 408 and 803.

(7) Access and parking as regulated in Sections 302 through 307.

(8) Setback and height requirements as regulated in Chapter 7.

603. M-R Medical/Residential District. It is the purpose and intent of this district to provide areas medical services and residential development plus open areas where similar development is likely to occur. Professional services are permitted in this district provided that they meet applicable standards and are limited so as not to encourage general commercial activity. When proposed uses are not allowed in the R-1 Low Density Residential or R-2 Medium Density Residential District, but are adjacent to the R-1 Low Density Residential or R-2 Medium Density Residential District, a buffer strip shall be planted and maintained.

In order to achieve the purpose and intent of the M-R Medical/Residential District, as shown on the Zoning Map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

- (1) Any use allowed in the R-1 Residential District.
- (2) Residential planned unit developments except mobile home parks.
- (3) Bed and breakfast inns.
- (4) Medical uses including hospitals for human care, professional offices for doctors, professional offices for nursing services; day care centers providing care and supervision for children, handicapped persons, or elderly for periods of less than twenty-four (24) hours; professional offices for dentists; and similar uses, provided:
 - (a) A site plan prepared as regulated in Section 310 is reviewed and approved by the planning commission;
 - (b) The buildings are placed not less than forty (40) feet from side and rear property lines;
 - (c) There are planted buffer strips with a minimum of ten (10) feet in height along rear and side property lines;
 - (d) Any outside lighting of parking lots or other facilities shall be designed and constructed in such a manner as to not cause inconvenience to other uses in the immediate area.
 - (e) That access be restricted to streets classified as Level A, B, or C (See Appendix B) on the official zoning map; and
 - (f) Existing buildings may be utilized provided that the provisions of this ordinance are met as closely as possible.
- (5) Signs as regulated in Section 309.
- (6) Customary accessory buildings as regulated in Sections 408 and 803.
- (7) Access and parking as regulated in Sections 302 through 307.
- (8) Setback and height requirements as regulated in Chapter 7.

604. P-1 Residential/Professional District. It is the purpose and intent of this district to provide areas for medium density residential and professional uses where the character of the existing neighborhood has taken a direction toward professional service activities. Professional services are permitted in the district provided they meet applicable standards, are limited

so as not to encourage general business activity, and are located on major arterial or collector streets as noted on the zoning map. In addition, this district should promote the historic and aesthetic value of older homes where possible to maintain the unique nature of the established residential neighborhoods.

In order to achieve the purpose and intent of the P-1 Professional/Residential District, as shown on the Zoning Map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

(1) Any use and regulations in the R-2 Residential District except mobile home parks.

(2) Professional offices for doctors, lawyers, dentists, architects, real estate agencies, insurance agencies, and similar uses as determined by the Newport Board of Zoning Appeals, provided:

(a) A site plan prepared as regulated in Section 310 is reviewed and approved by the planning commission;

(b) New buildings are placed not less than forty (40) feet from side and rear property lines;

(c) Existing buildings shall have no parking in front yards and shall meet the requirements of this section as closely as possible;

(d) There are planted buffer strips with a minimum of ten (10) feet in height along rear and side property lines;

(e) Any outside lighting of parking lots or other facilities shall be designed and constructed in such a manner as to not cause inconvenience to other uses in the immediate area.

(f) That access be restricted to streets classified as Level A (See Appendix B) on the official zoning map; and

(3) Signs as regulated in Section 309.

(4) Customary accessory buildings as regulated in Sections 408 and 803.

(5) Access and parking as regulated in Sections 302 through 307.

(6) Setback and height requirements as regulated in Chapter 7.

605. C-1 Central Business District. It is the purpose and intent of this district to secure the commercial core of the City and to encourage concentrated development of office and shopping facilities. The requirements of the district are designed to protect and improve this area as the principal shopping and office district of Newport. Prior to the issuance of building permits for all new construction, site plans as required by Section 310, shall be reviewed and approved by the planning commission to determine if the projects meet all requirements and are in keeping with the comprehensive planning program of the City of Newport, Tennessee. When proposed uses are adjacent to a residential district, a buffer strip shall be planted and maintained.

In order to achieve the purpose and intent of the C-1 Central Business District, as shown on the zoning map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

- (1) Retail trade and services, excluding all types requiring outdoor display or storage.
- (2) Business, professional, and personal services excluding repair garages, junk yards, and storage yards.
- (3) Cultural activities.
- (4) Churches, clubs, and lodges.
- (5) Dwelling units for the purpose of permanent occupancy located above street level.
- (6) Townhouses, condominiums, and similar types of housing may be established as separate uses as a PUD under the applicable provisions of Section 308 of this ordinance when the following development criteria are met:
 - (a) There shall be no minimum lot size required for this type of development.
 - (b) The density of such developments shall not exceed fifteen (15) units per gross acre.
- (7) Public buildings and lands, except schools, provided a site plan is submitted as required in Tennessee Code Annotated, § 13-4-104.
- (8) Signs as regulated in Section 309.
- (9) Customary accessory uses and structures as regulated in Section 408.
- (10) No off-street parking is required, however, any off-street parking provided shall meet the applicable provisions in Sections 302 - 307.
- (11) Setback and height requirements as regulated in Chapter 7.

606. C-2 General Business District. It is the purpose and intent of this district to provide for general commercial areas at convenient locations within the city. The regulations are designed to encourage concentrations of commercial activities and to preserve the traffic carrying capacity of the major collectors and arterials upon which such uses are located. The regulations are also designed to encourage groupings of compatible commercial activities in which parking and traffic congestion can be reduced to a minimum. Therefore, prior to issuance of building permits for all new construction, site plans, as required by Section 310, shall be reviewed and approved by the planning commission to determine if the projects meet all requirements and are in keeping with the comprehensive planning program of the City of Newport, Tennessee. When proposed uses are adjacent to a residential district, a buffer strip shall be planted and maintained.

In order to achieve the purpose and intent of the C-2 General Business District, as shown on the zoning map of the City of Newport, Tennessee, the following regulations apply and uses are permitted.

- (1) Any use and regulations in the R-2 (Residential District) except mobile home parks.
- (2) Personal, business, and professional services and offices, excluding junkyards and other similar uses.
- (3) Storage yards provided a buffer strip is planted.

- (4) Retail businesses, including automobile and mobile home sales.
- (5) Lodges, clubs, hotels, motels, restaurants, and other similar services.
- (6) Funeral homes.
- (7) Churches and places of worship.
- (8) Gasoline service stations as regulated in Section 314.
- (9) Wholesale business and warehousing.
- (10) Places of amusements, recreation, entertainment, or assembly.
- (11) Shopping centers developed as planned unit developments as regulated in Section 308.
- (12) Commercial and travel trailer parks developed as planned unit developments as regulated in Section 308.
- (13) Publicly owned buildings and uses, following approval by the planning commission as required in Tennessee Code Annotated, § 13-4-104; and schools and colleges offering general education.
- (14) Signs as regulated in Section 309.
- (15) Access and parking as regulated in Sections 302 through 307.
- (16) Customary accessory uses and structures as regulated in Section 408.
- (17) Setback and height requirements as regulated in Chapter 7.

607. C-3 Interstate Highway Business District. It is the purpose and intent of this district to provide for interstate highway oriented commercial areas adjacent to interstate highway interchanges. The regulations are designed to encourage concentrations of commercial activities associated with interstate highway traffic while also encouraging groupings of compatible commercial activities in which parking and traffic congestion can be reduced to a minimum. Therefore, prior to issuance of building permits for all new construction, site plans, as required by Section 11-310, shall be reviewed and approved by the planning commission to determine if the projects meet all requirements and are in keeping with the comprehensive planning program of the City of Newport, Tennessee. When proposed uses are adjacent to residential districts, a buffer strip shall be planted and maintained.

In order to achieve the purpose and intent of the C-3 Interstate Highway Business District, as shown on the zoning map of the Newport, Tennessee, the following regulations apply and uses are permitted.

- (1) Retail businesses, including automobile and mobile home sales.
- (2) Lodges, clubs, hotels, motels, restaurants, and other similar services.
- (3) Gasoline service stations as regulated in Section 11-314.
- (4) Planned Commercial developments as regulated in Section 11-308.
- (5) Personal, business, and professional services and offices, excluding junkyards and other similar uses.

- (6) Publicly owned buildings and uses, following approval by the planning commission as required in Tennessee Code Annotated, § 13-4-104; and schools and colleges offering general education.
- (7) Signs as regulated in Section 309.
- (8) Access and parking as regulated in Sections 11-302 through 11-307.
- (9) Customary accessory uses and structures as regulated in Section 11-408.
- (10) Setback and height requirements as regulated in Chapter 7.

608. M-1 Light Industrial District. It is the purpose and intent of this district to establish areas for certain industrial and commercial establishments along with open areas which will likely develop in a similar manner. The regulations are designed to protect the essential community characteristics and to promote and encourage industrial, wholesaling, and commercial uses and to discourage residential development. Therefore, prior to the issuance of building permits for all new construction, site plans, as required by Section 311, shall be reviewed and approved by the planning commission to determine if the projects are in keeping with this ordinance and the comprehensive planning program of the City of Newport, Tennessee.

In order to achieve the purpose and intent of the M-1 Light Industrial District, as shown on the Zoning Map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

- (1) Personal, business, and professional services and offices.
- (2) Wholesale trade.
- (3) Warehouses.
- (4) Trucking terminals of moderate vehicle size and/or activities.
- (5) Contractor offices and equipment storage.
- (6) Building supplies.
- (7) Enclosed manufacturing uses as established below:
 - (a) printing and publishing, limited to newspapers, books, periodicals, miscellaneous printing and publishing, and similar allied industries;
 - (b) optical;
 - (c) food and dairy products, meat packing except odorous cooking and preserving and slaughterhouse operations;
 - (d) small article products including jewelry, musical instruments, toys, pens, pencils, and similar uses;
 - (e) weaving and moderate textiles, apparel and other finished products made from fabrics and similar materials;
 - (f) professional, scientific, and controlling products; and
 - (g) lumber and wood products, furniture, and other products, except sawmills and paper mills.
- (8) Other uses of the same general character as the above uses, excluding jails.

- (9) Signs as regulated in Section 309.
- (10) Access and parking as regulated in Section 302 through 307.
- (11) Customary accessory uses and structures as regulated in Section 408.
- (12) Setback and height requirements as regulated in Chapter 7.

609. M-2 Heavy Industrial District. It is the purpose and intent of this district to establish areas for heavy industrial activities. The regulations are designed to protect essential community characteristics and promote the economy by encouraging industrial development in an orderly planned manner. Therefore, prior to the issuance of building permits for all new construction, site plans, as required by Section 311, shall be reviewed and approved by the planning commission for compliance with this ordinance and the comprehensive planning program of the City of Newport, Tennessee.

In order to achieve the purpose and intent of the M-2 Heavy Industrial District, as shown on the Zoning Map of the City of Newport, Tennessee, the following regulations apply and uses are permitted:

- (1) Any use permitted in the M-1 Light Industrial District.
- (2) Service terminals for waterways, trucks, railroads, and related facilities.
- (3) Any industry which does not cause injurious or obnoxious noise, odors, fire hazards, or other objectionable conditions as determined by the planning director. Slaughterhouses, sawmill uses, and jails shall automatically be considered as nonallowed uses.
- (4) Access and parking as regulated in Sections 302 through 307.
- (5) Signs as regulated in Section 309.
- (6) Customary accessory uses and structures as regulated in Section 408.

610. Agriculture District. It is the purpose and intent of this district to establish areas for agriculture and forestry activities while minimizing their conflicts with non-farm activities. The regulations are designed to protect essential community characteristics and promote the economy by encouraging continued agricultural and forestry where those activities are still viable. Therefore, prior to the issuance of building permits for all new construction, site plans, as required by Section 311, shall be reviewed and approved by the planning commission for compliance with this ordinance and the comprehensive planning program of the City of Newport, Tennessee.

- (1) Agriculture uses, agricultural processing excluding manufactured products, animal husbandry including veterinarian services and animal hospital services, and other similar uses as determined by the Newport Board of Zoning Appeals.
- (2) Forestry activities and related services.
- (3) Single family and two (2) family (duplex) residences.

- (4) Churches and places of worship.
- (5) Signs as regulated in Section 309.
- (6) Customary accessory buildings as regulated in Sections 408 and 803.
- (7) Access and parking as regulated in Sections 302 through 307.
- (8) Setback and height requirements as regulated in Chapter 7.

CHAPTER 7

SECTION 701 - AREA, YARD, AND HEIGHT REQUIREMENTS

For the purpose of this ordinance, area, yard, and height requirements for the district classifications of the City of Newport, Tennessee, Zoning Ordinance are hereby established as follows:

Minimum Lot Size				Minimum Yard Requirements From Property Lines (feet)			
District	Area in Square Feet	Square Feet Per Additional Family	Lot Width at Bldg. Setback (feet)	Front Yard*	Side Yard*	Rear Yard*	Maximum Height of Structures (feet)
R-1	7,500	7,500	75	30	12**	30	35
R-2	7,500	3,000	75	30	10**	25	35
M-R	7,500	3,000	75	30	12**	25	35
P-1	7,500	3,000	75	30	12**	25	35
C-1				0	0	0	35***
C-2				30	15	25	35***
C-3				30	15	25	35***
M-1				30	20	25	55
M-1				40	25	25	55
A-1	5 acres			50	50	20	35

* Different setback requirements stated in Sections 308, 310, 311, and 601 through 609 shall take precedence over the above stated requirements.

** Structures greater than twenty (20) feet in height shall meet a fifteen (15) foot setback.

*** Height limits may be increased to fifty-five (55) feet if an internal fire protection system and fire hydrants are installed.

CHAPTER 8

EXCEPTIONS AND MODIFICATIONS

SECTION

- 801. Lot of Record
- 802. Adjoining and Vacant Lots of Record
- 803. Exceptions for Carport or Garage Construction
- 804. Front Yards
- 805. Exceptions on Height Limits

801. Lot of Record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of applicable zoning regulations does not own sufficient land to enable him to conform to the yard or other requirements of the zoning regulations, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of the zoning ordinance. Such lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely, in the opinion of the Board of Zoning Appeals, as is possible.

802. Adjoining and Substandard Lots of Records. Where two (2) or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located.

803. Exceptions for Carport or Garage Construction. For existing housing constructed on lots of record of less than seven thousand - five hundred (7,500) square feet in area and on which no garage or carport currently exists, carports or garages may be constructed in rear and side yards upon the planning director making the following findings:

(1) The size or shape of the lot or the location of the principal structure on the lot will not permit the construction of a carport or garage in a manner that will meet the current setback requirements of this ordinance.

(2) That the construction of a carport or garage will not have a detrimental affect on the safety of adjoining properties or damage the aesthetic character of the surrounding neighborhood.

(3) That the current setback requirements of the ordinance be followed as closely as possible, except that, no carport or garage shall be constructed less than five (5) feet from any property line unless a letter of consent first be obtained from the adjacent property owner.

804. Front Yards. The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots located within two hundred (200) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

805. Exceptions on Height Limits. The height limitations of this ordinance shall not apply to any structure not intended for human occupancy, including but not limited to church spires, belfries, cupolas, domes, and chimneys attached to residential structures. Such structures including, but not limited to monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, and aerials shall be reviewed by the planning commission prior to construction.

CHAPTER 9

ADMINISTRATION AND ENFORCEMENT

SECTION

- 901. Building Permit Required
- 902. Enforcing Officer
- 903. Application for Issuance of Building Permits
- 904. Expiration/Extension of Building Permit Approvals
- 905. Final Site Inspection/Issuance of Certificate of Occupancy
- 906. Violations
- 907. Penalties
- 908. Remedies

901. Building Permit Required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings until the planning director has issued for such work a building permit including a statement that the plans, specifications, and intended use of such building in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the planning director.

902. Enforcing Officer. The provisions of this ordinance shall be administered and enforced by the Planning Director. The planning director shall have the authority to enter upon any land during reasonable hours and make examinations and surveys that do not occasion damage or injury to private property.

903. Application For/Issuance of Building Permits. For all multi-family residential, commercial, public, semi-public, or industrial uses, a site plan or PUD plan, whichever may be applicable, prepared in accordance with the provisions of Sections 310, 311, or 308, shall be submitted with an application for a building permit. Building permit applications for all other uses not requiring a site plan or PUD plan shall be accompanied by a dimensioned sketch or scale plan indicating the size and shape of the lot and the location and use of any existing or proposed buildings or structures on the site. No building permit for earth moving or construction shall be issued unless all the applicable provisions of this ordinance have been met. If the request for issuance of a building permit is refused, the planning director shall state the reason for his refusal in writing.

904. Expiration/Extension of Building Permit Approvals.

(1) Expiration of Building Permits. Unless provided for otherwise in this ordinance, building permits, along with any sketch or site plans upon which such permit was issued, shall be null and void six (6) months from the date of issuance and/or approval if substantial progress has not been made toward completion of the development activity as it was approved. Planned Unit Developments (PUD's) shall be null and void twelve (12) months from the date of approval if substantial progress has not been made toward completion of the development activity as it was approved.

The planning director may grant any number of ninety (90) day extensions to a building permit holder for a building permit, if just cause can be given to justify the extension and if progress toward completion of the project can be shown.

(2) Abandonment of Permitted Projects. Any project for which a building permit has been issued and where an accessory or principal building has only been partially constructed at the end of one (1) year and for which an application for extension has not been submitted, may be subject to being considered as an unsafe and illegal building and may be subject to the provisions of Section 102.4 of the Southern Standard Building Code and any other applicable provisions of this or any other ordinance of the city.

905. Final Site Inspection/Issuance of Certificate of Occupancy.

In order to ensure that a building, structure, or addition has been constructed in accordance with the approved sketch, site, or PUD plan and will be occupied by a use lawful within the zoning district in which it is located, the Planning Director shall make a final inspection upon notification by the owner or occupant that a premises is ready to be occupied. Within three (3) working days of such application, the planning director shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of this ordinance and the statements made in the application for the building permit. If such a certificate is refused, the planning director shall state such refusal in writing with the cause. No land or building hereafter erected or altered in its use shall be used until such a certificate of occupancy has been granted.

906. Violations. Any person whether owner, lessee, principal, agent, employee, or otherwise who violates any provision of this ordinance, permits any such violation, fails to comply with any of the provisions or requirements hereof, including any conditions, stipulations, or safeguards attached to any permit, variance, special exception, or other such final authorization or approval hereunder, or who erects, constructs or reconstructs any building or structure, or uses any land in violation of any written statement or plan submitted and approved pursuant to this ordinance shall be guilty of a misdemeanor.

907. Penalties. Any persons violating any provision of the ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

908. Remedies. In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the planning director or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

CHAPTER 10

BOARD OF ZONING APPEALS

SECTION

- 1001. Creation and Appointment
- 1002. Procedure
- 1003. Appeals
- 1004. Powers
- 1005. Action of the Board of Zoning Appeals

1001. Creation and Appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, § 13-7-205. The Newport Municipal/Regional Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Newport Municipal/Regional Planning Commission.

1002. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his/her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

1003. Appeals. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the planning director based in whole or part on provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the planning director and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The planning director shall transmit forthwith to the board all papers constituting the record upon which the action appeal was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney.

1004. Powers. The board of zoning appeals shall have the following powers:

(1) Administrative Review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, or requirement, permit decision, determination or refusal made by the planning director or other administrative official in the carrying out or enforcement of any provision of this ordinance.

(2) Special Exceptions. To hear and decide special exceptions to this ordinance as noted in Chapter 8.

(3) Variance. To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of this ordinance was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance. Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

1005. Action of the Board of Zoning Appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the planning director. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to authorize any variance from the terms of this ordinance.

CHAPTER 11**AMENDMENTS****SECTION**

- 1101. Procedure
- 1102. Approval by Planning Commission
- 1103. Introduction of Amendment

1101. Procedure. The city council may amend the regulations, boundaries, or any provision of this ordinance. Any member of the city council may introduce such amendment, or any official, board, or any other person may present a petition to the city council requesting an amendment or amendments to this ordinance.

1102. Approval by Planning Commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval, or suggestions to the planning commission. If the planning commission disapproves after such submission, it shall require the favorable vote of a majority of the entire membership of the city council to become effective.

1103. Introduction of Amendment. Upon the introduction of an amendment of this ordinance or upon the receipt of a petition to amend this ordinance, the city council shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the city council of the request change. Said notice shall be published in some newspaper of general circulation in the City of Newport, Tennessee. Said hearing by the city council shall take place not sooner than fifteen (15) days after the date of publication of such notice.

CHAPTER 12

LEGAL STATUS PROVISIONS

SECTION

- 1201. Conflict with Other Ordinances
- 1202. Validity
- 1203. Effective Date

1201. Conflict with Other Ordinances. In the case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Newport, the most restrictive shall in all cases apply.

1202. Validity. If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

1203. Effective Date. This ordinance shall take effect and be in force from and after its passage, the public welfare demanding it.

Certified by Planning Commission _____

Passed on First Reading _____

Passed on Second Reading _____

Approved and Signed in Open Meeting _____

Attest: _____

/S/ _____
City Recorder

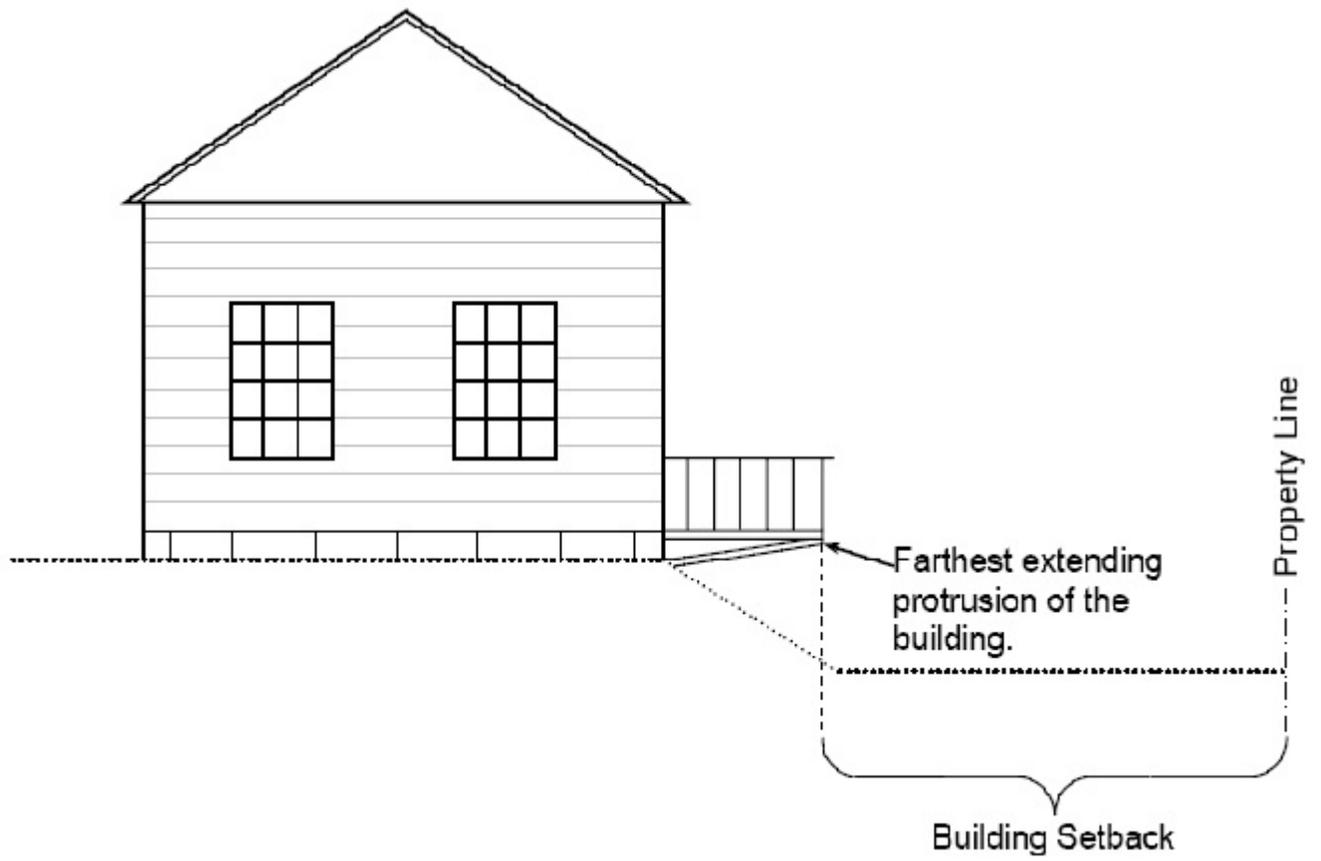
Mayor

APPENDICES

These appendices shall not be considered as a part of the adopted zoning ordinance. Their purpose is to assist city staff, appointed and elected officials, and other users of the zoning ordinance in understanding important administrative procedures essential to efficient enforcement of the city's land use regulation program.

APPENDIX A

ILLUSTRATION B



APPENDIX B**STREET CLASSIFICATIONS**

The streets and roads in the City of Newport, Tennessee, are classified by the Newport Major Street Plan and are used as street access classifications for the purpose of this ordinance:

Street Classification Level A	Arterial
Broadway	
Cosby Highway	
North Street	
Street Classification Level B	Major Collector
Headrick Avenue	
Heritage Blvd.	
Lincoln Avenue	
Morrel Springs Road	
Rankin Road	
Smith Street	
Street Classification Level C	Minor Collector
2nd Street	
3rd Street	
Bailey Street	
College Street	
Street Classification Level D	Local Streets

All other streets in the City of Newport will be classified for access purposes as local streets.

APPENDIX C

CERTIFICATE OF PLANNED UNIT DEVELOPMENT APPROVAL

We hereby certify that this Planned Unit Development (PUD) has been found to comply with the zoning and PUD regulations of the Newport Municipal/Regional Planning Commission, with the exception of such alterations or variances, if any, as noted in the minutes of the Newport Municipal/Regional Planning Commission and the Newport Board of Zoning Appeals.

_____	_____
Date	Chairman Newport Municipal/Regional Planning Commission

_____	_____
Date	Secretary Newport Municipal/Regional Planning Commission

CERTIFICATE OF PUD APPLICATION AND AGREEMENT

I (we) hereby certify that I (we) understand that the approval of a Planned Unit Development (PUD) shall expire twelve (12) months after the date of approval.

_____	_____
Date	Applicant

	Applicant

APPENDIX D

CERTIFICATE OF SITE PLAN APPROVAL

We hereby certify that this site plan has been found to comply with the zoning and site plan regulations of the Newport Municipal/Regional Planning Commission, with the exception of such variances, if any, as noted in the minutes of the Newport Board of Zoning Appeals.

Date

Chairman Newport Municipal/Regional
Planning Commission

Date

Secretary Newport Municipal/Regional
Planning Commission

CERTIFICATE OF SITE PLAN APPLICATION AND AGREEMENT

I (we) hereby certify that I (we) understand that the approval of a site plan shall expire six (6) months after the date of approval unless a building permit has been issued and substantial progress has been made toward completion of the project.

Date

Applicant

Applicant

APPENDIX E

**APPLICATION FOR BOARD OF ZONING APPEALS HEARING
CITY OF NEWPORT, TENNESSEE**

300 E. Main Street, P. O. Box 370
Newport, Tennessee
(423) 623-2811

Applicant Name: _____
Applicant Address: _____

Property Owner Name: _____
Property Owner Address: _____

Address of Property in Question:

Tax map, group and parcel number(s) for property: _____

(Attach a tax map and mark the affected property)

Existing zone and use of property: _____

Action requested:

Administrative Review/Zoning Text Interpretation:

Setback Variance:

Height Variance:

Extension of a Non-conforming Use:

Special Exception:

Reason for making the request and why you feel the request is justified:

Signature of the Applicant: _____

Date: _____

Approved by the Board of Zoning Appeals: _____

INSTRUCTIONS FOR THE APPLICANT:

(1) You must obtain the names and addresses of the adjoining property owners, prepare a letter notifying them of your request (a sample letter is attached to this application), place the letters in stamped addressed envelopes and take the letters to the City of Newport Planning Department AT LEAST 10 days prior to the Board of Zoning Appeals meeting. The Planning Department will mail the letters.

(2) You or a representative MUST be present at the Board of Zoning Appeals meeting to respond to any questions or concerns the Board may have.

(3) A \$50.00 fee to help defray administrative costs is required at the time of application. Please make checks payable to the City of Newport, Tennessee.

FOR STAFF USE ONLY

Date received: _____

Scheduled for the _____ Board of Zoning Appeals meeting.

Letters to adjoining property owners mailed: _____

Board of Zoning Appeals Action: Approved _____ Denied _____

SAMPLE LETTER FOR ADJOINING PROPERTY OWNERS

BOARD OF ZONING APPEALS ACTION REQUESTED

Date: _____

Adjoiner Name: _____

Address: _____

Dear _____,

This letter is to notify you of my request to the Newport, Tennessee Board of Zoning Appeals for a _____. The property that will be discussed is located at _____. I am requesting the Newport Board of Zoning Appeals approve my request so that I may _____

_____. My request is on the _____
Newport, Tennessee Board of Zoning Appeals agenda. The Board meets at 3:00
p.m. at the Newport City Hall. All interested persons are invited to attend.

Sincerely,

Applicant Name

Approved by the Board of Zoning Appeals: _____

APPENDIX F

**APPLICATION FOR ZONE RECLASSIFICATION
CITY OF NEWPORT, TENNESSEE**

300 E. Main Street, P. O. Box 370
Newport, Tennessee
(423) 623-2811

Applicant Name: _____
Applicant Address: _____

Property Owner Name: _____
Property Owner Address: _____

Address of Property requested for zone reclassification:

Tax map, group and parcel number(s) for property:

(Attach a tax map and mark the affected property)

Existing zone and use of property: _____

Requested zone and use of property : _____

Signature of the Applicant: _____
Date: _____

INSTRUCTIONS FOR THE APPLICANT:

(1) You must obtain a “rezoning sign” from the City of Newport Planning Department and place the sign on the proposed rezoning site AT LEAST 10 days prior to the Planning Commission meeting.

(2) The sign must remain on the site until the Planning Commission has voted on your request.

(3) The person requesting the rezoning must submit to the City of Newport Planning Department letters addressed to each property owner and resident that is adjacent to the property in question containing information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where the Planning

Commission meeting will be held. Such letters should be placed in unsealed, stamped and addressed envelopes ready for mailing by the Planning Department. The return address of the Planning Department must appear on the envelope, and a list of all persons to whom letters are sent must accompany the application.

Approved by the Planning Commission: _____

(4) You or a representative must be present at the Planning Commission meeting to respond to any questions or concerns the Commission may have.

(5) A \$70.00 fee is required at the time of application. Please make checks payable to the City of Newport, Tennessee.

FOR STAFF USE ONLY

Date received: _____
Scheduled for the _____ Planning Commission meeting.
Letters to adjoining property owners mailed: _____
Sign posted: Yes _____ No _____
Planning Commission Action: Approved _____ Denied _____
Notice of Public Hearing Printed: _____
1st Reading Date: _____ Action: _____
2nd Reading Date: _____ Action: _____
Effective Date of Rezoning: _____

**LETTER FOR ADJOINING PROPERTY OWNERS
ZONE RECLASSIFICATION (REZONING) REQUEST**

Date: _____
Adjoiner Name: _____
Address: _____

Dear _____,

This letter is to notify you of my request to the Newport Regional Planning Commission for a zone reclassification (rezoning). The property I am requesting to be rezoned is located at _____
_____ and is zoned _____. A sign has been placed on the property as required by the Newport Regional Planning Commission. I am requesting the Newport Regional Planning Commission recommend the property be rezoned to _____

_____. I request this property be rezoned so that I may _____.
My request is on the _____ Newport Regional Planning
Commission agenda. The Planning Commission meets at 3:00 p.m. at the
Newport City Hall.

If the Newport Regional Planning Commission approves my request, the Board
of Mayor and Aldermen will conduct a Public Hearing and two readings before
the rezoning becomes effective. A Notice of Public Hearing will be placed in the
Newport Plain Talk at least 15 days prior to the Public Hearing.

Sincerely,

Applicant Name

Approved by the Planning Commission _____

ORD-1

ORDINANCE NO. 2008-14**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF NEWPORT TENNESSEE.**

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

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

WHEREAS the Board of Mayor and Aldermen of the City of Newport, 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 "Newport Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF NEWPORT, TENNESSEE, THAT:

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 "Newport 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 appropriation ordinance or ordinance providing for the levy of taxes or 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

ORD-2

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

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

¹State law reference

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

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

ORD-4

Passed 1st reading, October 14, 2008.

Passed 2nd reading, December 8, 2008.

Corinne Ball

Mayor

Amanda S White

Recorder