

**THE
WAVERLY
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

October 1994

Change 10, July 11, 2011

CITY OF WAVERLY, TENNESSEE

MAYOR

David M. Vaughn

VICE MAYOR

Michael D. Goodman

ALDERMEN

Daniel T. Collier
Philip M. Fowlkes
Thomasine Hill
Minnie Lou Warren
Robert Lee (Bob) Wheeler

RECORDER

Sarah A. Tinnell

CITY MANAGER

Buddy Frazier

CITY ATTORNEY

John Lee Williams

Preface

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

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

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

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

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

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

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

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

Steve Lobertini
Codification Specialist

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

Section 14. Be it further enacted, That all Ordinances shall begin an enacting clause as follows: "Be it Ordained by the Board of Mayor and Aldermen of the City of Waverly," and shall at the end of each Act contain the provisions that "This Ordinance shall take effect from and after its passage, the welfare of the City requiring it," otherwise it shall not take effect until thirty days after its passage.

The Board of Mayor and Aldermen shall insure that all ordinances are available for public inspection at City Hall at any reasonable time.

Section 31. Be it further enacted, That it shall be the duty of the Mayor to preside at the Meetings of the Board; to carefully examine the bills and Ordinances passed, and should any of them, in whole or in part not meet with his approval, he shall return them to the next regular meeting of the Board of Mayor and Aldermen with his objections in writing, either to the whole or any part of such bills or Ordinances, and no bill nor Ordinance, in whole or in part, so vetoed by the Mayor shall go into effect unless same be passed by two-thirds vote of the whole number of the members of the Board of Mayor and Aldermen. The Mayor may veto part and approve part of any bill or Ordinance, and that part he approves shall go into effect at once, but the part vetoed shall not go into effect unless passed by two-thirds vote, as above provided. No bill or Ordinance shall become a law without first having been read and passed at two separate meetings by a majority of said Board of Aldermen, and not until said bill or Ordinance shall have been signed by the Mayor, or without his signature, as provided in this Act. The role of members shall be called and the vote of each member voting shall be recorded in the passage of all bills and ordinances on each reading. If the Mayor fails to return any bill or Ordinance at the next regular meeting after its passage, he shall be deemed to have approved same, and it shall become a law without further action. . . .

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CITY MANAGER.
5. VOTING PRECINCTS.
6. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

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

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.

²Charter references

Appropriations; prohibited: § 12.

Appropriations; limitation: § 16.

Compensation: § 38.

Issuance of bonds: § 39.

Legislative powers: § 8.

Municipal elections: § 4.

Oath of office: § 5.

Ordinance powers: § 9.

Qualifications: § 4.

Tenure: § 7.

Vacancies in office: § 6.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:00 P.M., on the second and fourth Mondays of each month at the city hall. (1984 Code, § 1-101)

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from the city manager, committees, aldermen and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1984 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1984 Code, § 1-103, modified)

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 city 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 as provided for in the charter. (1984 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1984 Code, § 1-202)

¹Charter references

Compensation: §§ 31 and 38.

Oath of office: §§ 5 and 31.

Qualifications: § 4.

Powers and duties: § 31.

Tenure: § 7.

Vacancy in office: §§ 6 and 32.

Veto power: § 31.

CHAPTER 3

RECORDER¹

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in the sum of ten thousand dollars (\$10,000.00), with surety acceptable to the board of mayor and aldermen, before assuming the duties of his office. (1984 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1984 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the city which are not expressly assigned by the charter or this code to another city officer. He shall also have custody of, and be responsible for maintaining all city bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1984 Code, § 1-303)

¹Charter references

Appointment by mayor: § 4.

Assessment of property taxes: § 25.

Bond: §§ 18 and 30.

Collect property taxes: § 26.

Compensation: § 38.

Duties: § 30.

Oath of office: § 5.

Qualifications: § 4.

To keep tax books: § 25.

CHAPTER 4

CITY MANAGER¹

SECTION

1-401. Appointment and tenure.

1-402. Authority, powers and duties.

1-401. Appointment and tenure. The board of mayor and alderman may, at its discretion, employ a city manager who shall be appointed by the mayor and confirmed by, and serve at the pleasure of, the board of mayor and aldermen. (1984 Code, § 1-401)

1-402. Authority, powers and duties. The city manager shall have such authority, powers and duties as the board of mayor and aldermen prescribes by resolution. (1984 Code, § 1-402)

¹Charter references

Appointment: § 38.

Duties: § 38.

CHAPTER 5

VOTING PRECINCTS

SECTION

1-501. Establishment of voting precinct for city elections.

1-502. Conduct of elections.

1-503. Costs for holding elections.

1-501. Establishment of voting precinct for city elections. For the conduct of all city elections in and for the City of Waverly, Tennessee, there is hereby established one precinct which shall consist of all of the territory within the corporate limits of the City of Waverly. The polling place for said precinct shall be at the Humphreys County Court House. (1984 Code, § 1-1301, as amended by Ord. #1991-4, Feb. 1991)

1-502. Conduct of elections. The Election Commission of Humphreys County, Tennessee shall call, conduct, hold, canvas and certify the results of all municipal elections in and for the City of Waverly, Tennessee as provided by the general laws of the State of Tennessee and as provided in the charter of the city and of such other elections as may be provided for from time to time pursuant to the ordinances and resolutions of the board of mayor and aldermen of the City of Waverly, Tennessee. (1984 Code, § 1-1302)

1-503. Costs for holding elections. The costs for the holding of all municipal elections within the City of Waverly, Tennessee shall be paid from the general funds of the city as may be appropriated from time to time by the appropriation ordinances enacted by the board of mayor and aldermen. (1984 Code, § 1-1303)

CHAPTER 6

CODE OF ETHICS

SECTION

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

1-501. Applicability. This chapter establishes a code of ethics for full and part time elected and appointed officials and employees of City of Waverly (hereinafter referred to as the "municipality"), whether compensated or not, including those serving on separate boards, commissions, committees, authorities, corporations, and other instrumentalities appointed or created by the municipality. (as added by Ord. #2007-08, March 2007)

1-502. General. For purposes of this chapter the following terms shall have the meanings assigned:

- (1) "Personal interest" shall be: (a) Financial, ownership, or employment interest in the subject of a vote by a municipal official which is not otherwise regulated by state statutes relative to conflicts of interest; or
 - (b) Financial, ownership, or employment interest in a matter regulated or supervised by a municipal official or employee which is not otherwise regulated by state statutes relative to conflicts of interest, or
 - (c) Financial, ownership, or employment interest of a family member of a municipal official or employee.
- (2) A "family member" is a spouse, parent, stepparent, grandparent, sibling, child, or stepchild.
- (3) "Employment interest" includes situations in which a municipal official or employee or a family member is negotiating possible employment with a person or organization that is the subject of the vote of a municipal official or who will be regulated or supervised by a municipal official or employee.
- (4) 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.

(5) Nothing herein shall be deemed to repeal or supersede the provisions of chapter 3 of title 4 of Waverly Municipal Code regulating conflicts of interest of municipal officers and employees, but the provisions of this chapter shall be deemed to be in addition and supplementary thereto. (as added by Ord. #2007-08, March 2007)

1-503. Disclosure of personal interest by official with vote. A municipal official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote is taken, so that it appears in the minutes, any personal interest that affects or would lead a reasonable person to infer that it affects the vote on the measure. The municipal official may recuse himself or herself from voting on the measure. (as added by Ord. #2007-08, March 2007)

1-504. Disclosure of personal interest in nonvoting matters. A municipal official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of such discretion, before the exercise of the discretion, when possible, shall disclose his or her interest in writing which shall be filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. #2007-08, March 2007)

1-505. Acceptance of gratuities, etc. A municipal 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 performing an act or refraining from performing an act expected or required to be performed in the regular course of his or her duties; or

(2) That might reasonably be interpreted as an attempt to influence his or her action or reward him or her for past action in executing municipal business. (as added by Ord. #2007-08, March 2007)

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

(2) A municipal official or employee may not use nor disclose information obtained in his or her official capacity or position of employment with intent to result in financial gain for himself or herself or any other person or entity. (as added by Ord. #2007-08, March 2007)

1-507. Use of municipal time, facilities, etc. (1) A municipal official or employee may not use nor authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to himself or herself or to a family member.

(2) A municipal official or employee may not use nor 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. (as added by Ord. #2007-08, March 2007)

1-508. Use of position or authority. (1) A municipal official or employee may not make nor attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) A municipal official or employee may not use nor attempt to use his or her position to secure any privilege or exemption for himself or herself or others which is not authorized by the charter, general law, ordinance or policy of the municipality. (as added by Ord. #2007-08, March 2007)

1-509. Outside employment. A municipal official or employee may not accept nor continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of his or her municipal position or conflicts with any provision of the municipal charter, ordinance or policy. (as added by Ord. #2007-08, March 2007)

1-510. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of a municipal official or employee who is 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 credible complaints against appointed municipal officials and employees charging violation of this chapter, or undertake an investigation on his or her own initiative when information indicated a possible violation. The city attorney shall make recommendations for action to end or seek retribution for any activity which in his or her judgment constitutes a violation of this chapter.

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the governing body and the governing body determines the complaint has merit or sufficient appearance of merit to warrant further investigation, the governing body

shall authorize and direct an investigation by the city attorney or by such other individual or entity designated by the governing body.

(3) In interpreting and enforcing this chapter the standard shall be what a reasonable municipal official or employee would do in the same or similar circumstances.

(4) When a violation of this chapter also constitutes a violation of a personnel policy, rule, or regulation of the municipality, the violation shall be dealt with as a violation of such provisions in addition to a violation of this chapter. (as added by Ord. #2007-08, March 2007)

1-511. Violations. An elected or appointed official or appointed member of a separate board, commission, committee, authority, corporation, or other instrumentality of the municipality who violates any provision of this chapter shall be punished as provided by the charter or other applicable law and in addition shall be subject to removal from office as provided by law and/or censure by the governing body. A municipal employee who violates any provision of this chapter is subject to disciplinary action as the governing body shall determine. (as added by Ord. #2007-08, March 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. BEAUTIFICATION COMMISSION.
2. RECREATION COMMISSION.

CHAPTER 1

BEAUTIFICATION COMMISSION

SECTION

- 2-101. Establishment of commission.
- 2-102. Membership on commission.
- 2-103. Appointment of members and terms of office.
- 2-104. Chairman and secretary of the commission.
- 2-105. Meetings of the commission.
- 2-106. Limitation on powers of the commission.
- 2-107. Purposes of the commission.
- 2-108. Service without compensation.

2-101. Establishment of commission. There is hereby created an agency of the City of Waverly, Tennessee to be hereafter designated the known as "The Waverly City Beautification Commission." (1984 Code, § 1-1101)

2-102. Membership on commission. The commission shall be composed of ten (10) members who shall be citizens and residents of the City of Waverly, Tennessee and who shall be of lawful age. The mayor of the City of Waverly additionally shall serve as an ex officio and voting member of the commission. (1984 Code, § 1-1102)

2-103. Appointment of members and terms of office. The membership of the commission in addition to the ex officio member thereof shall be appointed by the mayor of the City of Waverly for a term of two years beginning on July 1 and ending on June 30 two years thereafter, with the initial appointments after the adoption of this chapter to be on the basis that five (5) of the appointments thereto shall be for a term ending on June 30, 1981 and five (5) of the appointments thereof shall be for a term ending on June 30, 1982, and thereafter five members of the commission shall be appointed each year for a two-year term in accordance herewith. The appointments thereto shall be made and announced by the mayor at the first regular meeting of the board of mayor and aldermen during the month of June of each year. (1984 Code, § 1-1103)

2-104. Chairman and secretary of the commission. The commission shall meet and organize as soon after its creation as reasonably possible upon the call for a meeting thereof by the mayor. The mayor shall serve as the chairman of the commission at all times. The city manager of the City of Waverly shall serve as the secretary to the commission at all times. (1984 Code, § 1-1104)

2-105. Meetings of the commission. The commission shall meet at such times and such places within or without the City of Waverly, Tennessee as may be designated in notice thereof and the call for the same by the mayor or by a call for such a meeting by not less than five (5) of the members thereof. Meetings shall be open to the public in accordance with the "Open Meetings Law" of the State of Tennessee. (1984 Code, § 1-1105)

2-106. Limitation on powers of the commission. The commission shall have no authority in law, in fact, by implication or otherwise to bind the City of Waverly, Tennessee, or the board of mayor and aldermen of the City of Waverly, Tennessee, for any contractual obligation unless specifically authorized and permitted therein by resolution or ordinance of the board of mayor and aldermen dealing upon the particular subject thereof and which said limitation shall include the prohibition upon the commission from incurring any monetary liability whatsoever on the part of the City of Waverly, Tennessee or of the board of mayor and aldermen. (1984 Code, § 1-1106)

2-107. Purposes of the commission. The commission shall serve as an advisory and reporting agency of the City of Waverly, Tennessee and to the board of mayor and aldermen and shall make such studies and perform inquiries and investigations so as to promote the beautification of the City of Waverly, Tennessee and to promote the esthetic betterment of the city. The commission shall carry on such educational programs as it may deem advisable in the promotion of this purpose and may hold such meetings and conduct such public forums as will promote the purposes thereof. The commission shall make such recommendations to the City of Waverly, Tennessee and to the board of mayor and aldermen as it deems advisable in connection with projects, programs or developmental betterment of the City of Waverly, Tennessee. At no time shall the commission be considered to have the authority of a planning commission or a zoning authority. (1984 Code, § 1-1107)

2-108. Service without compensation. The members appointed to the commission by the mayor shall serve without compensation, but the city may from time to time by appropriation provide for any necessary expenses in connection with the operations of the commission, and the city through its existing administrative services shall provide such administrative support and services to the commission as may be from time to time directed by the mayor. (1984 Code, § 1-1108)

CHAPTER 2

RECREATION COMMISSION

SECTION

- 2-201. Establishment of commission.
- 2-202. Election of vice-chairman and secretary.
- 2-203. Purposes of the commission.
- 2-204. Limitation on powers of the commission.
- 2-205. Service without compensation.

2-201. Establishment of commission. There is created and established a commission consisting of ten (10) members to be known as the "Waverly Recreation Commission" (hereinafter called the "commission"). One member of the commission shall be a member of the board of aldermen appointed by the mayor with the consent of the board of aldermen and which aldermanic member shall be ex-officio the chairman of the commission. The term of office of such aldermanic member shall be for one (1) year, but not to exceed the expiration of his or her elected aldermanic term of office. The remaining members of the commission shall be individual citizens and residents of the city appointed by the mayor with the consent of the board of alderman. Three (3) members shall initially be appointed for one (1) year terms, three (3) members shall be appointed for initial two (2) year terms, and three (3) members shall be appointed for initial three (3) year terms. Thereafter at the expiration of the term of each such non-aldermanic member a term of office shall be for three (3) years. A vacancy shall be filled for an unexpired term. (Ord. #1992-3, June 1992)

2-202. Election of vice-chairman and secretary. The commission is empowered to adopt bylaws governing its organization and operations. The commission shall additionally elect from among its members a vice-chairman and a secretary and shall prescribe their duties. Minutes of meetings and proceedings shall be kept by the secretary and copies thereof shall be made available monthly to the board of mayor and aldermen. (Ord. #1992-3, June 1992)

2-203. Purposes of the commission. The commission shall serve as an advisory, coordinating, oversight and reporting agency for the board of mayor and aldermen and shall make studies, perform inquiries and investigations, carry out educational programs, make recommendations and provide review and oversight of the operations of all aspects of the recreational program of the city. The commission shall develop a recreational program and recreational facilities for the city in cooperation with voluntary citizens groups. The commission shall classify proposed projects with the degree of matching effort offered by

respective citizens groups requesting recreational facilities and programs. Matching efforts shall include financing availability, facilities required, material available, volunteer workers available to assist in the supervision and conducting of recreational programs. The commission shall submit to the board of mayor and aldermen an annual report of activities during the preceding calendar year and shall from time to time through its chairman report to the board of mayor and aldermen on its studies, recommendations and activities in connection with the promotion of, development and oversight of the recreation program and facilities of the city. (Ord. #1992-3, June 1992)

2-204. Limitation on powers of the commission. The commission shall have no authority in law or in fact, by implication or otherwise, to bind the City of Waverly or its board of mayor and aldermen, for any contractual obligation unless specifically authorized and permitted to do so by resolution or ordinance of the board of mayor and aldermen dealing upon the particular subject thereof and which said limitation includes a prohibition upon the commission from incurring any monetary liability whatsoever on the part of the city or of its board of mayor and aldermen. (Ord. #1992-3, June 1992)

2-205. Service without compensation. The members of the commission shall serve without compensation, but shall be reimbursed from time to time for any expenses incurred in connection with their duties; provided, however, that any such expenses shall be paid only from appropriations made available annually therefor by the board of mayor and aldermen and only after prior approval for the incurring of the same has been given by the city manager. (Ord. #1992-3, June 1992)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. City judge. The officer designated by the city's charter to handle judicial matters within the city shall preside over the city court and shall be known as the city judge. (1984 Code, § 1-601)

¹Charter references

Appointment: § 30.

Compensation: §§ 30 and 38.

Qualifications: § 30.

Tenure: § 30.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Fines and costs.

3-203. Disturbance of proceedings.

3-204. Trial and disposition of cases.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name, warrant and/or summons numbers, alleged offense, disposition, fines and costs imposed and whether collected, whether committed to workhouse, and all other information that may be relevant. (1984 Code, § 1-602)

3-202. Fines and costs.¹ (1) To be imposed and recorded in open court. All fines and costs shall be imposed and recorded by the city judge on the city court docket in open court. After any fine and cost have been so imposed and recorded, the city judge shall have no power to remit or release same or any part thereof except when necessary to correct an error.

(2) Court costs. In addition to any other costs specifically provided for by any law or laws of the State of Tennessee, and in addition to any litigation taxes or costs as may be provided by the general laws of the State of Tennessee, there shall be adjudged and levied upon every defendant against whom there has been a final conviction for a violation of any ordinance of the City of Waverly or any provision of the Waverly Municipal Code, a sum in the amount of one hundred dollars (\$100.00) as costs and which said sum upon its collection shall be remitted to the treasurer of the City of Waverly for use in the General Fund in the City of Waverly for all municipal and corporate purposes.

(3) Disposition and report of fines and costs. All funds coming into the hands of the city judge in the form of fines, costs and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1984 Code, § 1-609, as amended by Ord. #2003-11, April 2003, and Ord. #2010-11, Aug. 2010)

¹Municipal code reference

Drug enforcement fines and forfeitures: this title, chapter 5.

3-203. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane or blasphemous language, or by any distracting conduct whatsoever. (1984 Code, § 1-610)

3-204. Trial and disposition of cases. Every person charged with violating a city ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1984 Code, § 1-606)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating city ordinances. (1984 Code, § 1-603)

3-302. Issuance of summonses.² When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons, ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1984 Code, § 1-604)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1984 Code, § 1-605)

¹State law reference

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

²Municipal code references

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

3-402. Bond forms, conditions and amounts.

3-401. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1984 Code, § 1-607)

3-402. Bond forms, conditions and amounts. (1) Appearance bonds. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of proctive custody. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

(2) Appeal bond. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1984 Code, § 1-608)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

CHAPTER 5

SPECIAL DRUG FUND

SECTION

- 3-501. Receipt and deposit of funds.
- 3-502. Appropriation of such funds.
- 3-503. Auditing of special fund.
- 3-504. Disbursement of funds.
- 3-505. Accounting for expenditures.
- 3-506. Acquisition of property - title.
- 3-507. Form of request voucher and accounting.

3-501. Receipt and deposit of funds. Pursuant to Tennessee Code Annotated, §§ 39-17-420 and 53-11-415 the city recorder of the City of Waverly, Tennessee is hereby authorized and directed to receive from the clerk of the court of Humphreys County, Tennessee having jurisdiction thereof such amounts of money as shall be forwarded by such clerk by way of fines, forfeitures of appearance bonds, or proceeds from the sale of goods seized and forfeited under the provisions of the Tennessee Drug Control Act of Tennessee, being Tennessee Code Annotated, § 39-17-401 et seq.¹ and to receive the same on behalf of the City of Waverly, Tennessee for use and disposition as provided in said law in the local drug enforcement program of the City of Waverly, Tennessee, and the city recorder shall maintain a separate fund and bank account for said funds in an authorized depository of the City of Waverly, Tennessee, depositing said funds to the credit and in the name of the City of Waverly but designating the same as "Special Drug Fund." (1984 Code, § 1-1201)

3-502. Appropriation of such funds. All of such funds as received by the city recorder and deposited as provided by this chapter are hereby appropriated exclusively to be used in the local drug enforcement program of the police department of the City of Waverly, Tennessee or in connection with any program operated by it through any cooperating agencies and all such proceeds as received from time to time shall be paid out for such purposes solely as hereinafter provided in this chapter. (1984 Code, § 1-1202)

¹Tennessee Code Annotated, § 53-11-451 covers goods subject to seizure and forfeiture while Tennessee Code Annotated, §§ 39-17-420 and 53-11-415 establish the procedure by which the funds from the sale of seized and forfeited goods shall be distributed and handled by the recipients, including municipalities.

3-503. Auditing of special fund. This fund as created hereby shall be audited as a special fund and account of the City of Waverly in its annual audit each year as is the case of funds in the general and special funds of the City of Waverly. (1984 Code, § 1-1203)

3-504. Disbursement of funds. The city recorder shall be authorized to pay out sums from such fund not to exceed any current balance thereof by check drawn thereon, countersigned by the city manager, to the chief of police or to such person or persons named at his direction upon the chief of police presenting to the city recorder a voucher therefor bearing a current date and being signed by the chief of police and setting forth the proposed use of such funds with such specific detail as to enable the recorder to make a determination that the same shall be lawfully used for the purpose intended. Such voucher before being honored by the city recorder shall bear the approval by the city manager. The city recorder shall not disburse any of the funds from such special fund until such time as the voucher herein provided for shall have been filed with the recorder and bearing the approval of the city manager. Such voucher shall be filed as a permanent record of the city to justify the expenditure. The voucher shall be in the form as hereinafter provided by this chapter. (1984 Code, § 1-1204, as amended by Ord. #2003-42, Dec. 2003)

3-505. Accounting for expenditures. Within thirty (30) days after any sum shall have been disbursed by the city recorder to the chief of police pursuant to this chapter the chief of police shall file with and furnish to the city recorder an accounting of the expenditure of such funds as theretofore obtained setting forth with detail the use thereof, the sum so expended, and the payee or recipients thereof unless it shall be certified by the city attorney that the disclosure of such information would compromise the drug enforcement program of the city. A failure to furnish an accounting of the expenditure made, or such a certification in lieu thereof, shall be considered a malfeasance of office for which the chief of police shall be subject to suspension and/or discharge from employment with the city. (1984 Code, § 1-1205)

3-506. Acquisition of property - title. Any tangible personal property, other than drugs or drug paraphernalia which may be required for use in the prosecution of an alleged offense, that is acquired by the use of the funds as herein provided shall be and become the property of the City of Waverly, Tennessee and may not be thereafter disposed of by sale or otherwise except upon lawful order therefor by the board of mayor and aldermen of the City of Waverly, Tennessee. (1984 Code, § 1-1206)

3-507. Form of request voucher and accounting. The voucher required for the drawing of any funds by the chief of police from the special fund as provided herein and which shall be required before the city recorder shall be

authorized to disburse any such funds as hereinbefore provided in this chapter, shall be in the following form:

SPECIAL DRUG FUND REQUEST VOUCHER

No. _____

CITY OF WAVERLY, TENNESSEE

To the city recorder of the City of Waverly, Tennessee:

In accordance with Tennessee Code Annotated § 53-11-415, and The Waverly Municipal Code, 1984, § 3-501 et seq., I hereby request that there be disbursed by you from the "City of Waverly--Special Drug Fund" for use in the City of Waverly drug enforcement program, the following:

<u>REQUESTED PAYEE</u>	<u>AMOUNT</u>	<u>PURPOSE</u>
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I will file with you within thirty (30) days from the date hereof an accounting of the use and expenditure of such funds.

Date _____.

Chief of Police

Approved:

City Manager

(2) The accounting form that the chief of police shall file with the city recorder within the thirty (30) day period shall be in the following form:

DRUG FUND REQUEST ACCOUNTING

Voucher No. _____

CITY OF WAVERLY, TENNESSEE

To the city recorder of the City of Waverly, Tennessee:

In accordance with Tennessee Code Annotated § 53-11-415, and The Waverly Municipal Code, 1984, § 3-501 et seq., I hereby certify and account for the funds heretofore obtained by the above numbered voucher, as follows:

<u>DATE</u>	<u>PAYEE OR RECIPIENT</u>	<u>PURPOSE</u>	<u>AMOUNT</u>
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Attached are documents necessary to substantiate such payments.

Date _____.

Chief of Police

(1984 Code, § 1-1207, as amended by Ord. #2003-42, Dec. 2003)

TITLE 4

MUNICIPAL PERSONNEL¹

CHAPTER

1. SOCIAL SECURITY.
2. WORK, VACATION LEAVE, AND HOLIDAY REGULATIONS.
3. MISCELLANEOUS RESTRICTIONS ON PERSONNEL.
4. FLEXIBLE BENEFITS PLAN FOR EMPLOYEES.
5. INFECTIOUS DISEASE CONTROL POLICY.
6. [REPEALED].
7. EMPLOYEE DEFERRED COMPENSATION PROGRAM.
8. DRUG AND ALCOHOL TESTING.
9. SEXUAL HARASSMENT.
10. E-MAIL POLICY.
11. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.

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

There is hereby excluded from this chapter 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 ordinance creating any retirement system for any employee or official of the city.

There is hereby excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official,

¹See Ord. #2002-15 (Nov. 2002) of record in the recorder's office for employee position descriptions, duties and qualifications.

compensation for which is on a fee basis, or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations. (1984 Code, § 1-801)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1984 Code, § 1-802)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1984 Code, § 1-803)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1984 Code, § 1-804)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1984 Code, § 1-805)

CHAPTER 2

WORK, VACATION LEAVE, AND HOLIDAY REGULATIONS

SECTION

4-201. Applicability of chapter.

4-202. Hours of work.

4-203. Attendance.

4-204. Holidays.

4-205. Vacation leave.

4-206. Sick leave.

4-207. Absence without leave.

4-208. Absence without pay.

4-209. Occupational disability or injury leave.

4-210. Leave without pay.

4-201. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees except those operating under the jurisdiction of a school, utility or other separate board or commission. (1984 Code, § 1-801)

4-202. Hours of work. Normally, all full-time employees of the city shall work forty (40) hours per week. Special provisions may be made in any department that requires additional hours to meet any existing conditions or emergency contingencies and which such special provisions shall be approved by the city manager prior to the effective date thereof. (1984 Code, § 1-902)

4-203. Attendance. All full-time employees of the city shall be in attendance at their regular work and at their regular place of work as may be designated by the department head under whose supervision such employees shall work. The head of every city department shall keep daily an attendance record of the employees working under such supervisor and shall report the same to the city manager. (1984 Code, § 1-903)

4-204. Holidays. (1) Except as to such other holidays as may be from time-to-time declared by the board of mayor and aldermen the following shall be official holidays for employees of the City of Waverly:

Holiday NameHoliday Date

New Year's Day

January 1st of each year

Dr. Martin Luther

King, Jr.'s Birthday

Third Monday in January

<u>Holiday Name</u>	<u>Holiday Date</u>
Good Friday	Friday before Easter of each year
Memorial Day	Last Monday in May of each year
Independence Day	July 4th of each year
Labor Day	First Monday in September of each year
Armistice Day	November 11th of each year
Thanksgiving Day	Fourth Thursday in November of each year
Christmas Day	December 25th of each year

(2) When a holiday shall fall on a Saturday the preceding Friday shall be observed as the holiday and when a holiday shall fall on a Sunday the following Monday shall be observed as the holiday.

(3) All regular and full-time employees of the city shall be compensated for any holiday granted herein or by the board of mayor and aldermen from time to time for eight (8) hours off with pay either on the date of such holiday or on such other day as may be designated by the city manager. If such holiday with pay is in anyway detrimental to the interest of the city the employee may be required to work on such holiday and draw a regular compensation and in addition be paid an amount equal to eight (8) hours at the straight time in effect as of the date of such holiday.

(4) All fire and police employees who are granted compensatory time in lieu of holidays shall take such compensatory holiday time within three (3) months following such holiday for which it is granted.

(5) No employee shall be authorized to work on any holiday except with the prior approval of the head of the department for which such employee shall work concurred in by the city manager.

(6) Any employee who is absent without leave on any working day immediately preceding or immediately following any holiday shall not be entitled to be paid for such holiday. (1984 Code, § 1-904, as amended by Ord. #1997-1, § 1, Jan. 1996)

4-205. Vacation leave. (1) All regular and full-time employees of the city who have been employed by the city for one full year of continuous service shall be allowed vacation leave time with pay according to the following schedule:

<u>Years of Service</u>	<u>Annual Vacation Leave Time Allowed</u>
After 1 year service	5 working days per calendar year
After 2 years of service but less than 10 years service	10 working days per calendar year
For 10 years service and over	15 working days per calendar year

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

(2) Vacation leave time shall be accounted for and controlled on a calendar year basis.

(3) Vacation leave compensation shall be computed at the employees regular straight time pay rate in effect as of the date that the vacation leave time shall be earned.

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

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

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

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

(8) Earned vacation leave may be taken in whole or in part throughout the year at such times as may be approved from time to time by the head of the department for which such employee shall work and concurred in by the city manager. No less than one (1) day may be taken at any one time. In the case of employees who handle receipt of payments of taxes, water bills, court fines, or other funds being paid over to the City of Waverly, such employees shall not take any vacation time of less than five (5) days at one period.

(9) Unused vacation leave may not be carried forward from one calendar year to the next.

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

(11) Any employee moving from one department to another shall retain all accrued or unused vacation leave.

(12) Accumulated vacation leave pay is a condition of employment and any regular, full-time employee that is separated from employment with the city for any reason, including retirement, may receive terminal vacation leave pay

for any unused portion of his or her accumulated vacation leave. (1984 Code, § 1-905, as amended by Ord. #1988-21, Oct. 1988)

4-206. Sick leave. (1) All full-time employees of the city shall be allowed to accumulate sick leave with pay at the rate of one (1) working day for each full calendar month of service completed up to an unused maximum of sixty (60) working days. All such employees shall periodically be credited in the personnel records of the city with any accumulated sick leave days in accordance with such accrual rate. Sick leave shall be considered a benefit and privilege and not a right for the employees to use at his or her discretion. Employees shall, therefore, utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity resulting from causes beyond the employee's control, exposure to contagious disease thereby endangering the health of other employees, personal illness within the immediate family of the employee, enforced quarantine of the employee in accordance with community health regulations, disability resulting from pregnancy, childbirth or related medical conditions, or so as to keep an appointment with a licensed medical doctor, dentist or other recognized health care practitioner, bereavement time on the death of a spouse, parent, grandparent, brother, sister, child, grandchild, mother in law, father in law, son in law, daughter in law, or grandparent, include those in step relation.

(2) The city manager may, in his discretion, require that a health care practitioner's certificate or other satisfactory evidence be filed with the city evidencing the absence before it may be properly chargeable as sick leave.

(3) For sick leave purposes the term "working day" as it applies in this section shall be computed on an eight (8) hour basis.

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

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

(6) Sick leave shall begin to accrue at the end of the first calendar month of employment but shall be granted to employees and probationary status only upon approval of the city manager. An employee starting to work at any time after the first work day of the month shall not accumulate a sick leave day until the end of the following month.

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

(8) For sick leave purposes any reinstated employee shall be considered as a new employee regardless of the reason for his or her separation unless determined otherwise by the city manager in his sole discretion.

(9) Any employee who abuses the sick leave provisions of the city or who shall deliberately make or cause to be made any false or misleading

statement or claim concerning the same, shall be subject to the loss of any such benefits, dismissal from his or her employment with the city and such other disciplinary action as the city manager may determine.

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

(11) Health insurance coverage as made available by the city for the benefit of full-time active municipal employees and their family members, when the availability thereof is provided by annual appropriations being made therefor necessary to fund the same, shall be provided for retired municipal employees who have retired with not less than thirty five (35) years of continuous municipal service to include credit as may be allowed for up to four (4) years of continuous military service during periods of armed conflict as defined by the Tennessee Consolidated Retirement System. This retiree coverage shall be provided for such retired employees and their eligible family members upon their contribution of fifty percent (50%) of the premiums charged therefor. (1984 Code, § 1-906, as amended by Ord. #2008-13, June 2008)

4-207. Absence without leave. An absence without leave is an absence from duty which was not authorized or approved and for which either a request for leave was not made by the employee or when made such request was denied. Under such circumstances any employee may be subject to such disciplinary action, including termination from employment with the city, as the city manager deems necessary or appropriate. (1984 Code, § 1-907)

4-208. Absence without pay. An absence without pay is an absence which may or may not have been known and which has resulted from suspension, abandonment of position, or leave without pay granted by the city. The heads of all departments shall be responsible for maintaining accurate records of any employee who is absent from duty for any reason and shall report promptly the same to the city manager. (1984 Code, § 1-908)

4-209. Occupational disability or injury leave. (1) Any employee compelled to be absent from work because of any injury sustained in the course of his or her employment with the city and determined to be compensable under the provisions of the Worker's Compensation Act of the State of Tennessee shall be granted an occupational disability or injury leave in accordance with the provisions as set out by the insurance carrier for the city. Such leave shall be granted, however, in periods of three (3) months or less and shall not be extended unless expressly authorized by the city manager.

(2) Regular and full-time employees on occupational disability leave shall receive full pay from the city less any benefits received under Worker's Compensation and disability income insurance provided by the city for the first three (3) calendar months following the date of such injury, provided that the injury or disability shall be determined to be compensable under the provisions of the Worker's Compensation Act and provided further that the employee follows the procedures for reporting such injury or disability as required by the insurance carrier for the city.

(3) The total amount of money paid the employee during each pay period shall not exceed the full pay which such employee would have received for such period at his or her regular straight time pay in effect as of the date of the injury had he or she remained on the job.

(4) Time lost from employment with the city by the employee due to an on-the-job injury shall not be charged against sick leave or vacation leave nor shall sick leave be granted for on-the-job injury which is compensable under Worker's Compensation.

(5) Sick leave shall continue to accrue at the employee's regular rate in accordance with these provisions herein while such employee is on occupational disability or injury leave.

(6) Employees shall report immediately any injury incurred in the course of his or her employment, however minor, to his or her supervisor or department head and shall receive such first aid or medical treatment as may be necessary. Any employee determined to have been able but who shall fail to make such report shall not be eligible for any occupational disability or injury leave.

(7) The city manager shall report to the mayor all occupational disability leaves that extend for a period of more than thirty (30) days.

(8) Should an employee be unable to return to work within twelve (12) months from the day following the date of his or her injury then his or her service, seniority and employment and pay with the city shall be terminated. (1984 Code, § 1-909)

4-210. Leave without pay. A regular or part-time employee who is in good standing may be granted a leave without pay for a period not to exceed ninety (90) calendar days in any one calendar year upon the approval of the city manager concurred in by the mayor. (1984 Code, § 1-910)

CHAPTER 3

MISCELLANEOUS RESTRICTIONS ON PERSONNEL

SECTION

- 4-301. Business dealings.
- 4-302. Acceptance of gratuities.
- 4-303. Outside employment.
- 4-304. Political activity.
- 4-305. Use of city time, facilities, etc.
- 4-306. Use of position.
- 4-307. Strikes and unions.
- 4-308. Employee conduct and working relationships.
- 4-309. Residency of city employees.
- 4-310. Adoption of rules and regulations.
- 4-311. Violation of chapter, rules or regulations.
- 4-312. Municipally-owned motor vehicle use policy.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his city duties, it shall be unlawful for any city officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city, unless it is less than or does not exceed the price of others. (1984 Code, § 1-1001)

4-302. Acceptance of gratuities. No city officer or employee shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business. (1984 Code, § 1-1002)

4-303. Outside employment. No full time officer or employee of the city shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his city employment, or is likely to cast discredit upon or create embarrassment for the city. (1984 Code, § 1-1003)

4-304. Political activity. (1) City officers and employees may individually exercise their right to vote and privately express their political views as citizens. No city officer or employee shall solicit political campaign contributions or engage in or actively participate in any city political campaign. These restrictions shall not apply to elective officials.

(2) No full-time employee of the city shall seek or accept election to any city public office or take any active part in any city political campaign without first having resigned his or her full time position or having asked for and obtained permission from the mayor for a leave of absence without pay. No full time employee of the city shall seek or accept election to any county, state or federal public office or take any active part in any such county, state or federal political campaign where the office involved has an annual salary or pay in excess of \$500 unless the employee first resigns his or her full-time position with the city or asks for and obtains permission from the mayor for a leave of absence without pay from his or her city employment. It shall be permissible for any full-time employee of the city to seek and accept election to a county, state or federal public office or to take an active part in a county, state or federal political campaign where the office has an annual pay to the office holder of \$500 or less, provided that the seeking of such office or serving therein or the taking part in the active campaign therefor shall in no wise affect the duties of such employee as a full-time employee of the city.

(3) Nothing herein shall be construed as to anyway preclude any employee of the city or his or her right to privately express his or her opinion in regard to any political campaign or to cast his or her vote in the way or manner that such employee sees fit or to prevent any such employee from becoming a member of or continuing to be a member of any political organization or from attending any political meeting as an ordinary citizen.

(4) Any willful violation of any of the provisions hereof shall be sufficient grounds for the immediate discharge of any full-time employee guilty of such violation. (1984 Code, § 1-1004, as amended by Ord. #1986-8, June 1986)

4-305. Use of city time, facilities, etc. No city officer or employee shall use or authorize the use of city time, facilities, equipment or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment or supplies, and the city is paid at such rates as are normally charged by private sources for comparable services. (1984 Code, § 1-1005)

4-306. Use of position. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1984 Code, § 1-1006)

4-307. Strikes and unions. No city officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other city officer or employee to join any labor union which authorizes the use of strikes by government employees. (1984 Code, § 1-1007)

4-308. Employee conduct and working relationships. (1) No employee of the city shall engage in any criminal, dishonest, infamous, immoral or notoriously disgraceful conduct or behavior, activity or association which discredits such employee and/or the city. Such standard of conduct shall apply to any employee of the city whether on or off his or her job and if such conduct occurs off the job of such employee with the city it shall be sufficient to justify disciplinary action if such conduct is shown to reflect in any manner or to any degree upon the city.

(2) It shall be the duty and requirement upon each employee of the city to maintain high standards of cooperation, efficiency and economy in his or her work for the city. When an employee's work habits, attitude, production or personal conduct shall fall below a desirable standard as may be determined from time to time by the mayor or the city manager then such official shall at once point out such deficiency to such employee. Ordinarily a warning shall proceed any disciplinary action but nothing herein shall prevent the immediate formal action of termination of employment whenever the mayor shall determine that the conduct of such employee is such that it would be in the best interest of the city that dismissal occur. (1984 Code, § 1-1008)

4-309. Residency of city employees. (1) All regular and full-time employees of the city serving in the critical response positions of firemen or police, shall maintain a residence and shall continually reside within five (5) miles of the city hall of the city during the term of their employment and such residency of such critical response employees shall be at such location as shall permit such employees to report to work at the time required during normal or emergency periods and regardless of road or weather conditions. Any new applicant for such critical response positions shall indicate upon his or her application for employment that they understand the requirements for their residency and their willingness and agreement to comply at all times with such provisions. Any new employee hired in such critical response positions shall be allowed a period of six (6) months from and after the date of his or her employment within which to come into compliance with such residency requirements.

(2) When requests shall have been made in writing setting forth a detailed explanation or reason and the circumstances therefor the mayor may in his sole and absolute discretion grant such waiver or waivers to any critical response employee regarding his place of residency upon a finding that there are good and sufficient reasons therefor and that an extreme hardship would be worked upon said employee and that the damage, if any, would be minimal on the part of the city and that the granting of such waiver would be in the best interest of the city.

(3) All employees of the city shall be required as a part of and a condition of their continuing employment with the city to furnish to the office of the city manager with up-to-date information concerning their personal

marital status, family members, current address and telephone number, and such other personnel information as may be required. (1984 Code, § 1-1009)

4-310. Adoption of rules and regulations. The city manager of the City of Waverly, Tennessee upon approval of the mayor is hereby granted authority to adopt from time to time such rules and regulations as may be necessary in interpreting, implementing, explaining, or otherwise detailing any of the provisions as herein contained or as may affect any personnel matter of any full time employee of the city. Such regulations when adopted shall be filed as a part of the minutes of the next meeting of the board of mayor and aldermen occurring after the adoption and approval thereof. The original of such regulations when adopted and reported to the board of mayor and aldermen shall be entered in the book of ordinances as a part of the permanent records of the city. Any such rule or regulation shall be subject to repeal at any time by resolution of the board of mayor and aldermen. (1984 Code, § 1-1010)

4-311. Violation of chapter, rules or regulations. Any employee of the City of Waverly who shall violate any of the foregoing provisions relative to personnel restrictions or who shall violate any rule or regulation duly adopted and filed by the city manager pursuant hereto, shall be subject to termination from his or her employment with the city in addition to any other penalty as may be provided by law. (1984 Code, § 1-1011).

4-312. Municipally-owned motor vehicle use policy. 1. Except as otherwise provided no employee or official of the municipality shall use or allow a municipality-owned motor vehicle be used for personal benefit.

2. The city manager, the director of public works, the director of water and sewer services, and the director of public safety are authorized to use designated municipally-owned motor vehicles which are assigned to them on a continuing basis for commuting to and from their places of residence and to park the same at their residences during off-duty hours.

3. Subject to prior specific approval by the mayor on a case-by-case basis, the director of public safety may authorize a municipal police officer or fireman to use a designated municipally-owned motor vehicle on a continuing basis for commuting to and from his or her place of residence and park the same at his or her residence during off-duty hours.

4. No municipally-owned motor vehicle shall be operated by a non-municipal officer or employee nor by a municipal officer or employee specifically prohibited from using the same nor by a municipal officer or employee prohibited from driving on the public highways by reason of lack of general or special driving privileges.

5. A municipally-owned motor vehicle may be used by a municipal officer or employee for bona fide non-compensatory de minimis personal use incidental to official business to include stops for meals in the course of

employment and infrequent stops for personal business when going to and from a work-site or place of official business where such incidental use does not materially increase the number of miles that the vehicle is driven.

6. Except as otherwise provided all municipally-owned motor vehicles not in use by a municipal employee or officer on official business shall be secured on municipally-owned property unless temporarily located elsewhere during the course of official business or for maintenance and repair. (as added by Ord. #2005-4, March 2995)

CHAPTER 4

FLEXIBLE BENEFITS PLAN FOR EMPLOYEES

SECTION

- 4-401. Policy and purpose of plan.
- 4-402. Definitions.
- 4-403. Participation.
- 4-404. Salary reduction.
- 4-405. Benefits available.
- 4-406. Insurance premiums paid reimbursement programs.
- 4-407. Medical, dental and dependent care assistance expense reimbursement programs.
- 4-408. Compliance with law and regulations.
- 4-409. Termination of plan.
- 4-410. Termination of employment.
- 4-411. Group term life insurance.
- 4-412. Powers of the administrator.
- 4-413. Selection of the plan administrator.

4-401. Policy and purpose of plan. The City of Waverly Flexible Benefit Plan (hereinafter called the "plan") has as its purpose and it is declared to be the policy of the city to recognize the contribution made to the city by its employees and to reward them by providing benefits for those thereof and their beneficiaries who shall qualify under the plan. The plan is designed to permit eligible employees to receive those tax-free benefits available thereunder in lieu of taxable compensation from the city and it is the intention of the city that the plan qualify as a "cafeteria compensation" or "flexible benefits plan" within the meaning of Section 125 of the Internal Revenue Code of 1954, as amended (hereinafter called the "code"). (Ord. #1985-11, Oct. 1985)

4-402. Definitions. As used in this chapter the following definitions shall apply:

(1) "Allocation" is the portion of the participating employees annual compensation from the city which the employee has committed to any particular program under the plan.

(2) "Anniversary date" shall be the first day of September 1985 and each September 1 of every year thereafter.

(3) "Benefit" means any benefit under any program of the plan as adopted by this chapter.

(4) "Compensation" shall mean the most recently available wages, salary, or remuneration received by an eligible and participating employee of the city which is shown as taxable income on Internal Revenue Service Form W-2.

(5) "Dependents" shall mean any individuals as defined in Section 152 of the code.

(6) "Effective date" means October 1, 1985.

(7) "Employee" means any full-time or part-time employee of the city who receives compensation or remuneration from the city in the form of salary or wages which is subject to withholding requirements and/or payment of social security taxes under federal laws.

(8) "Expense" means any expense paid or incurred by a participating employee, the reimbursement of which by the city, would not be includable in the taxable income of the participating employee under any section of the code.

(9) "Non-taxable benefits" means those benefits that the city could have provided and funded as a tax deductible expense if it were a private employer liable for the payment of income taxes and would not have been included in the gross income of the participating employee.

(10) "Plan" means the provisions adopted by this chapter and shall also be known as the "City of Waverly Employees Cafeteria Benefits Plan of 1985" (also known as the "City of Waverly Flexible Benefit Plan.")

(11) "Plan administrator" shall mean such person or corporation as selected by the city to carry out the administration of the plan. (Ord. #1985-11, Oct. 1985)

4-403. Participation. (1) Any employee of the city on the effective date of the plan shall be an eligible participant in the plan as of such effective date.

(2) Any person who shall become an employee after the effective date shall become an eligible participant on the first day of the next calendar quarter after he or she has had three (3) months of continuous service with the city.

(3) Any person who shall be re-employed by the city after leaving its previous employment shall become an eligible participant in the plan on the anniversary date coincident with or next following the date on which such re-employed employee again performs a full calendar quarter of service. (Ord. #1985-11, Oct. 1985)

4-404. Salary reduction. By participating in the plan any employee thereby agrees to have his or her annual compensation reduced by the cost of the benefits selected by such employee under the plan to the extent of his or her allocation thereto. (Ord. #1985-11, Oct. 1985)

4-405. Benefits available. A participating employee of the city may have his or her compensation from the city for services rendered or labor performed reduced by his or her allocation and be reimbursed to the extent of the allocation for expenses incurred by such employee during any calendar year in the following programs of the plan:

- (1) Medical and dental insurance premiums paid program;
- (2) Medical expense reimbursement program;

- (3) Dependent care assistance program;
- (4) Group term life insurance premiums paid program (but not for group term life insurance coverage in excess of \$50,000);
- (5) Dependent life insurance premiums paid program (but not for premiums paid for coverage in excess of \$5,000 of any spouse or dependent child);
- (6) Accidental death and dismemberment insurance premiums paid program; and
- (7) Disability income premiums paid program. (Ord. #1985-11, Oct. 1985)

4-406. Insurance premiums paid reimbursement programs. (1) In each of the insurance premiums paid reimbursement programs of the plan the city shall reimburse all participating employees for such insurance premium expense incurred by them up to the maximum amount allowed by law and provided that there shall be no reimbursement of such premiums to such participating employees by reimbursement from any other source.

(2) The city may at its discretion pay directly to any insurance company or carrier the premiums due on behalf of any participating employee and to the extent paid directly by the city the compensation of the participating employee shall be reduced by an amount equivalent thereto or, alternatively, the employee shall submit to the city documentation of the payment of such premium by the employee and which amount shall be reimbursed to the employee and deducted from compensation as contemplated by the plan. (Ord. #1985-11, Oct. 1985)

4-407. Medical, dental and dependent care assistance expense reimbursement programs. (1) The city shall reimburse all participating employees for any medical or dental or dependent care assistance expenses incurred by the participating employee and eligible therefor pursuant to the code up to the maximum amount allowed by law upon the employee submitting to the plan administrator satisfactory evidence of such expenses.

(2) To the extent of any reimbursement by the city for such expenses the compensation of the employee shall be reduced accordingly. (Ord. #1985-11, Oct. 1985)

4-408. Compliance with law and regulations. It is the intent of this plan that the same fully comply with Sections 44a, 79, 105, 106, 125 and 129 of the Internal Revenue Code of 1954, as amended, and every regulation issued or adopted thereunder or in connection therewith. (Ord. #1985-11, Oct. 1985)

4-409. Termination of plan. The city may terminate the plan at any time upon notification to the employees participating hereunder. (Ord. #1985-11, Oct. 1985)

4-410. Termination of employment. In the event that any participating employee shall terminate his or her employment with the city then his or her participation in the plan shall automatically terminate therewith and the city shall have no further obligations under the plan to such terminating employee. (Ord. #1985-11, Oct. 1985)

4-411. Group term life insurance. Each participating employee may elect to be reimbursed under the plan for personal term life insurance premiums for coverage up to the amount of \$50,000 pursuant to the city's master group term life insurance policy as may be in effect at any time. (Ord. #1985-11, Oct. 1985)

4-412. Powers of the administrator. The plan administrator shall perform the duties and exercise the powers and discretion given to him, her or it pursuant to this chapter and the decisions and actions of such plan administrator shall be final and conclusive as to all persons affected thereby. The plan administrator shall supervise the establishment and maintenance of the records by the city containing all relevant data pertaining to any person affected by the plan and his or her rights thereunder and shall ascertain that such person receives the benefits to which he or she is entitled under the plan. The plan administrator shall prepare an annual report for the city as of the last day of each calendar year and such forms as may be required by the city and shall provide such other services including accounting services as may be agreed upon from time-to-time by and between such plan administrator and the mayor. (Ord. #1985-11, Oct. 1985)

4-413. Selection of the plan administrator. The mayor of the City of Waverly, Tennessee is authorized to select and name a plan administrator to carry out the duties conferred upon the plan administrator by this chapter and pursuant to the plan. The mayor is authorized to enter into such contracts in connection therewith as may be required and any such contract so entered into shall incorporate by reference the terms of this chapter which shall thus be made a part thereof. The provisions of this chapter shall control over the provisions of any term, condition or provision of any such contract. The mayor shall be authorized to negotiate with such plan administrator such fee or fees for the services of the plan administrator in connection with the administration of the plan and any fees thus agreed upon to be paid on the part of the city shall be paid only out of funds appropriated therefor by the board of mayor and aldermen. (Ord. #1985-11, Oct. 1985)

CHAPTER 5

INFECTIOUS DISEASE CONTROL POLICY

SECTION

4-501. Generally.

4-502. Administration.

4-503. Definitions.

4-504. General guidelines.

4-505. Hepatitis B vaccinations.

4-506. Reporting potential exposure.

4-507. Hepatitis B virus post-exposure management.

4-508. Human immunodeficiency virus post-exposure management.

4-509. Training regular full-time employees.

4-510. Training high risk employees.

4-511. Training of new employees.

4-512. Reports.

4-501. Generally. Occupational exposures to infectious diseases in the work place may occur in many ways, including needle sticks, cut injuries or blood spills. Several classifications of employment are assumed to be at high risk for blood borne infections due to their routinely increased exposure to infectious materials from potentially infected individuals. High risk occupations within the city employment are the following:

- (1) Police personnel;
- (2) Firefighters; and
- (3) Sanitation workers. (Ord. #1992-4, Sept. 1992)

4-502. Administration. Control or risks in contracting infectious diseases shall be administered by the city health officer who shall have the following powers, duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infectious disease control program subject to the provisions of this chapter and federal and state laws relating to occupational safety and health and regulations promulgated thereunder;
- (2) Make continuing exposure determinations for all employee classifications within the city to determine possible exposure to blood or other potentially infectious materials;
- (3) Maintain records on all employees in high risk occupations and on all incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance by employees in high risk occupations;
- (5) Coordinate and document all relevant training activities;

- (6) Recommend to the board of mayor and aldermen any amendments or changes to this chapter;
- (7) Identify any and all operations involving substantial risk of direct exposure to potentially infectious materials;
- (8) Issue such administrative orders as may be necessary hereunder to carry out his duties and responsibilities; and
- (9) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (Ord. #1992-4, Sept. 1992)

4-503. Definitions. (1) "Body fluids" - fluids that are recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid and concentrated HIV or HBV viruses.

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

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

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

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

(6) "Universal precautions" - a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected. Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine and vomitus unless these substances contain visible blood. (Ord. #1992-4, Sept. 1992)

4-504. General guidelines. City employees who are in high risk occupations shall:

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

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

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

(4) Take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments.

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

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored or if they have punctures, tears, or other evidence of deterioration.

(6) Use resuscitation equipment when necessary. Because of the risk of salivary transmission of infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate an employee from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus shall be available to all personnel to provide or potentially provide such emergency treatment.

(7) Wear protective eyewear or face shields during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose and eyes.

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

(9) Carefully handle and wash contaminated clothing (or other articles) as soon as possible at laundry and dish washing cycles of 120° F.

(10) Place all disposable equipment in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. Sharp objects shall be placed in an impervious container and shall be properly disposed.

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

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

(b) The signal word shall be readable at a minimum distance of five (5) feet by persons of 20/20 eyesight or such greater distance as warranted by the hazard.

High risk occupation employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(12) Handle linen soiled with blood or other potentially infectious materials as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage. The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(13) Whenever possible use disposable equipment to minimize and contain clean-up. (Ord. #1992-4, Sept. 1992)

4-505. Hepatitis B vaccinations. There shall be offered free of charge appropriate hepatitis B vaccinations to high risk employees in amounts and at times prescribed by standard medical practices. Vaccinations shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the city health officer. (Ord. #1992-4, Sept. 1992)

4-506. Reporting potential exposure. All city employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth):

(1) Notify the city health officer and their department head of the contact incident and details thereof.

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

(3) Pursuant to arrangements being make, see a physician as with any job-related injury.

Once an exposure has occurred, a blood sample shall be drawn if consent is obtained from the individual from whom exposure occurred. Such sample will then be tested for hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). (Ord. #1992-4, Sept. 1992)

4-507. Hepatitis B virus post-exposure management. (1) For an exposure to a source individual found to be positive for HBsAg, an employee who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended if it can be given within seven (7) days of exposure.

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

(3) If the source individual is negative for HBsAg and an employee has not been vaccinated, an opportunity shall be given to provide the hepatitis B vaccine series. HBIG administration shall be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated employee who receives an exposure from a source who refuses testing or is not identifiable shall be individualized. (Ord. #1992-4, Sept. 1992)

4-508. Human immunodeficiency virus post-exposure management.

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

(2) Following the initial test at the time of exposure, a seronegative employee shall be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) an exposed employee shall follow the U.S. Public Health Service recommendations for preventing transmission of HIV. These include refraining from blood donations and using

appropriate protection during sexual intercourse. During all phases of follow-up, employee confidentiality shall be protected.

(3) If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up procedures shall be individualized. Serologic testing should be made available to all employees who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #1992-4, Sept. 1992)

4-509. Training regular full-time employees. On an annual basis all city employees in regular full-time service shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious material. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #1992-4, Sept. 1992)

4-510. Training high risk employees. High risk occupation employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of universal precautions as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated materials. (Ord. #1992-4, Sept. 1992)

4-511. Training of new employees. During all new employee orientations he/she will be instructed on the effects of contracting infectious diseases. (Ord. #1992-4, Sept. 1992)

4-512. Reports. (1) Occupational injury and illness records shall be maintained by the city health officer. Statistics shall be maintained on the OSHA-2000 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-2000 report.

(2) Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine) shall be recorded.

(3) Use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported. (Ord. #1992-4, Sept. 1992)

CHAPTER 6

[REPEALED]

(Ord. #1997-2, § 1, Jan. 1997, as repealed and replaced by Ord. #1997-4, April 1997, as repealed by Ord. #2005-11, July 11, 2005)

CHAPTER 7

EMPLOYEE DEFERRED COMPENSATION PROGRAM

SECTION

- 4-701. Name.
- 4-702. Definitions.
- 4-703. Eligibility.
- 4-704. Reduction of compensation.
- 4-705. Coordination with tax deferred annuity 403(b) plans.
- 4-706. Benefits.
- 4-707. Withdrawal for hardship.
- 4-708. Amendment or termination.
- 4-709. Nonassignability.
- 4-710. Headings.
- 4-711. Waiver.
- 4-712. Types of investments.
- 4-713. Applicable law.
- 4-714. Distribution of benefits.

4-701. Name. This chapter shall be known as the Waverly Employee Deferred Compensation Program ("Program"). (as added by Ord. #1998-12, Dec. 1998)

4-702. Definitions. The following definitions apply unless otherwise specifically defined:

(1) "Compensation" is all payments for normal service rendered by a participant, including, but not limited to, the gross salary or remuneration of the participant, before deductions for federal or state taxes or pension plan contributions.

(2) "City" is the City of Waverly, Tennessee, a municipal corporation.

(3) "Includable compensation" results after deferred compensation or tax deferred annuity reduction amounts have been reduced from compensation and is shown on the IRS Form W-2 or IRS Form 1099 of a participant.

(4) "Compensation reduction" is that amount deferred by a participant's election to reduce his or her compensation under a joinder's agreement in accordance with the program.

(5) "Participant" is an individual eligible to defer compensation who fulfills the eligibility requirements of the program.

(6) "Beneficiary" is the persons (whether one or more) designated in his or her joinder amendment by a participant.

(7) "Normal retirement" is cessation from service with city effective on the first date of the calendar month after the participant attains normal retirement age.

- (8) "Normal retirement age" is age 65.
- (9) "Early retirement" is cessation from service with city effective prior to normal retirement age, but after age 50.
- (10) "Late retirement" is cessation from service with city which becomes effective after a participant attains normal retirement, but not later than age 70 1/2.
- (11) "Termination of service" is cessation of a participant's employment with city prior to retirement by reason other than death or disability or cessation of a participant's independent professional contractor relationship rendering service to city.
- (12) "Disability" is total and permanent impairment which prohibits a participant from engaging in any substantial gainful activity by reason of a medically determinable physical or mental condition which can be expected to result in death or be of a long and indefinite duration.
- (13) "Underutilized deferrals" is the amount by which actual compensation for previous taxable months exceeds the amount which would have been included in compensation had the maximum deferral been utilized.
- (14) "Effective date" is January 1, 1999.
- (15) "Tax ID number" is 62-6000432.
- (16) "Enrollment period" is November 1 through December 31 of each year during which a participant can make changes and new employees or independent professional contractors can elect to participate. (as added by Ord. #1998-12, Dec. 1998)

4-703. Eligibility. An eligible employee or independent professional contractor with the consent of city may irrevocably elect to reduce and defer his or her compensation as specified in section 4-704 through execution of a joinder agreement. (as added by Ord. #1998-12, Dec. 1998)

4-704. Reduction of compensation. (1) By executing a joinder agreement an eligible employee or independent professional contractor becomes a participant and agrees with city and city agrees with such participant that the participant's compensation otherwise receivable during a period of employment or service subsequent to January 1 following execution of the joinder agreement shall be irrevocably reduced by the compensation reduction as specified in the joinder agreement.

- (2) Annual compensation reduction will not exceed the lesser of:
 - (a) 25% of compensation; or
 - (b) 33-1/3% of includable compensation; or
 - (c) \$7,500.
- (3) A participant may utilize limited "catch-up" for any, or all, of the last three (3) taxable years of the participant immediately preceding his or her normal retirement age. The maximum that can be deferred in any taxable year

through the utilization of both the defined contribution limits and the "catch-up" amount may not exceed the underutilized deferrals.

(4) An eligible employee or independent professional contractor with respect to participation commencing in the initial year of the program, or an employee or independent professional contractor when first eligible to participate, may become a participant prior to or within 60 days after the program becomes effective or after first becoming eligible by agreeing to defer compensation not yet earned, but such agreement must be made prior to the beginning of the period in which it is to become effective.

(5) A participant shall have the right exercisable within thirty (30) days prior to the beginning of any calendar month to elect to increase or decrease the compensation reduction for the ensuing calendar year by executing another joinder agreement.

(6) A participant failure to file written notice of his or her elective choice as provided in (5) above shall constitute a waiver by participant of his or her right to elect a different reduction sum for the next succeeding calendar year and an affirmation and ratification to continue the stated compensation reduction as chosen in the prior period.

(7) A participant may elect to discontinue compensation reduction for any subsequent calendar year following the effective date of his or her joinder agreement; provided, however, a participant shall notify city of such discontinuance at least thirty (30) days prior to the subsequent calendar month. (as added by Ord. #1998-12, Dec. 1998)

4-705. Coordination with tax deferred annuity 403(b) plans. If a participant participates in a tax deferred annuity 403(b) plan, contributions made thereunder reduce the includable compensation limitations. The maximum combined annual contribution to such a plan and the program shall not exceed the lesser of 25% of compensation or \$7,500. The only exception to this normal rule is where a participant uses the "catch-up" provisions explained in section 4-704(3). (as added by Ord. #1998-12, Dec. 1998)

4-706. Benefits. (1) The following alternative types of benefits shall be available to participants:

(a) Retirement benefits. A participant must elect the method by which deferred amounts are to be paid no later than thirty (30) days prior to his or her actual retirement. For the purposes of this subsection, the definitions of early, normal, or late retirement will be used in determining the actual retirement date. The methods of distribution are found in subsection (e) hereafter. Payments will begin not later than thirty (30) days after the actual retirement date.

(b) Termination benefits. Should a participant terminate services other than by retirement, disability, or death, the city will make payment to such participant as elected in his or her joinder agreement.

These elections include any of those mentioned in subsection (e) which follows. Such payments will begin not later than thirty (30) days after said termination.

(c) Disability benefits. Prior to his or her normal retirement age, if a participant becomes totally and permanently disabled, city will pay benefits to the participant so qualifying as elected in his or her joinder agreement. Such payments will begin not later than thirty (30) days after receipt of proof of such disability.

(d) Death benefits. In the event a participant dies prior to his or her normal retirement age, city will pay death benefits to the participant's beneficiary as elected in his or her joinder agreement. Such payments will begin not later than thirty (30) days after receipt of proof of death.

(e) Joinder agreement settlement options. The settlement options are:

- (i) Life annuity; or
- (ii) Life annuity with 120 or 240 months certain; or
- (iii) Unit refund life annuity; or
- (iv) Joint and survivor;
- (v) Joint and survivor with 120 or 240 months certain,
- (vi) Any other mutually agreeable payout option.

(2) Factors determining benefits are age at the time compensation is deferred; the amounts of compensation reduction; the funding vehicle used; and age at retirement, termination, disability, or death. To determine benefits, a participant's age on his or her birth date nearest the date he or she elects to defer compensation will be used as the "age at the time compensation is deferred".

(3) Benefits shall be dependent upon the amount which has accumulated in the city's general account with respect to a participant or his or her beneficiary for whom such payments are being determined under the funding media selected.

(4) A participant shall designate his or her beneficiary, including a contingent beneficiary, to receive any benefits which may be payable upon the death of the participant. A participant shall have the right to change any beneficiary. Changes of a beneficiary are binding only if made in a manner acceptable to city prior to the payment of the amounts that become due.

(5) City has no obligation to set aside, earmark, or entrust any fund, policy, or money with which to pay its obligations under the program. A participant, and any successor in interest, shall be and remain simply a general creditor of city with respect to compensation deferred under the program in the same manner as any other creditor who has a general claim for an unpaid liability. City shall be the sole owner and beneficiary of any assets acquired for its general account under the program. City shall not make any substantial loans nor extend substantial credit to a participant or beneficiary which will be

offset by the benefits payable under the program. (as added by Ord. #1998-12, Dec. 1998)

4-707. Withdrawal for hardship. A participant may request withdrawal under the program prior to retirement or termination of service, but such a request will not be honored unless great hardship conditions exist. Hardship conditions must be the result of a real emergency beyond the control of the requesting participant or his or her beneficiary. Withdrawals are limited to amounts necessary to meet the hardship. A written request for withdrawal stating the hardship conditions shall be presented to city to determine the existence of an unforeseeable emergency and, if found to exist, the amount needed to satisfy the emergency. City's decision shall be final and binding. A withdrawal shall be effective upon approval by city and shall be paid in lump sum to a participant. (as added by Ord. #1998-12, Dec. 1998)

4-708. Amendment or termination. (1) City reserves the right to amend any provision of the Program at any time to the extent it deems advisable without the consent of a Participant or his or her beneficiary.

(2) City reserves the right to terminate the program at any time. Upon termination, city shall pay to each participant an amount of money which would have been available had a participant terminated his or her service at that time. City will make the payments in lump sum not later than thirty (30) days after termination of the program. (as added by Ord. #1998-12, Dec. 1998)

4-709. Nonassignability. No benefits under the program shall be subject in any manner to anticipation, alienation, sale, transfer, assignments, pledge, or encumbrance. Any attempt to do so shall be void. Benefits shall not be subject to or liable for the debts, contracts, liabilities, engagements, or torts of a participant nor those of his or her beneficiary. (as added by Ord. #1998-12, Dec. 1998)

4-710. Headings. Headings and subheadings contained herein are inserted for convenience of reference only and do not constitute a part of program provisions. (as added by Ord. #1998-12, Dec. 1998)

4-711. Waiver. Notwithstanding any other provision herein contained, city shall not be liable to a participant, nor to his or her beneficiary, for any mistakes in judgment in the making or retaining any investments 'nor for any loss from investing the funds so long as city performs its obligations in good faith. (as added by Ord. #1998-12, Dec. 1998)

4-712. Types of investments. (1) Deferred amounts, at the sole discretion of city, may be invested in commercial bank FDIC insured certificates of deposit, U. S. Treasury obligations, annuities, mutual funds or insurance products. City

shall provide all information on account transactions to participants upon request, but not more frequently than quarterly, and shall issue an annual account statement to participants showing deposits, withdrawals, and dividends paid.

(2) Nothing shall require city to purchase investments or assets, but in the event city purchases investments or assets, it shall not be required to exercise any option, election or right with respect to such investments or assets. If exercising any option, election, or right under such investments or assets, city shall not be required to exercise such option, election, or right in any particular manner. (as added by Ord. #1998-12, Dec. 1998)

4-713. Applicable law. This program shall be construed under the laws of the State of Tennessee and section 457 as the same may be in effect and amended from time to time. (as added by Ord. #1998-12, Dec. 1998)

4-714. Distribution of benefits. (1) Pursuant to the election of a participant city shall distribute to participant or to his or her beneficiary any amount to which he or she is entitled under the program.

(2) Any distribution to a participant must meet the requirements of Internal Revenue Code Section 401(a)(9) and regulations thereunder to the extent the same are consistent with the provisions of Section 457.

(a) If a participant's entire interest is to be distributed in other than a lump sum, the amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing a participant's entire interest by his or her life expectancy or that of the last survivor of his or her beneficiary.

(b) If a participant's deferred compensation is to be distributed over a period in excess of a participant's then life expectancy, the then present value of the payments to be made over the period of a participant's life expectancy must be more than sixty-six and two-thirds (66-2/3) of the then present value of the total payments to be made to a participant and to his or her beneficiary.

(c) Notwithstanding any provision in the program to the contrary, a participant's benefits shall be distributed not later than April 1 of the calendar year following the calendar year in which the participant attains age 70-1/2. Alternatively, distributions to a participant must begin not later than the April 1 following such calendar year and must be made over the life of the participant (or the lives of the participant and his or her beneficiary) or the life expectancy of the participant (or the life expectancies of the participant and his or her beneficiary).

(3) For purposes of the program, the life expectancy of a participant and his or her beneficiary (other than in the case of a life annuity) shall be redetermined annually in accordance with IRS Regulations. Life expectancy

and joint and last survivor expectancy shall be computed using the return multiples in Tables V and VI of IRS Regulations Section 1.72-9. (as added by Ord. #1998-12, Dec. 1998)

CHAPTER 8

DRUG AND ALCOHOL TESTING

SECTION

- 4-801. Policy.
- 4-802. Definitions.
- 4-803. Pre-employment testing.
- 4-804. Post-accident testing.
- 4-805. Random testing.
- 4-806. Reasonable suspicion testing.
- 4-807. Return to duty testing.
- 4-808. Follow-up testing.
- 4-809. Breath alcohol technician.
- 4-810. Evidential breath testing device.
- 4-811. Alcohol testing procedures.
- 4-812. Urine specimen collection procedures.
- 4-813. Testing methodology.
- 4-814. Review of results.
- 4-815. Specimen re-testing requested by employee.
- 4-816. Consequences of positive drug or alcohol test result of an employee.
- 4-817. Self-reporting.
- 4-818. Employee acknowledgment of policy.
- 4-819. Repeal of existing policies.

4-801. Policy. 7. The use, possession, purchase or sale of alcohol and illegal drugs, or of prescription drugs which are irregularly used and not as prescribed by lawful authority, or being under the influence of alcohol, by employees while operating municipal vehicles or equipment or while otherwise engaging in municipal business, and in the case of illegal drugs and of prescription drugs irregularly used for a period of four (4) hours prior to commencement thereof, and in the case of an accident during the course of employment, for a period of eight (8) hours following such accident or until a post-accident test is conducted, is strictly prohibited.

8. An employee called in to work or to perform his or her duties at other than during regularly scheduled hours shall disclose to his or her immediate supervisor his or her lawful use of alcohol or a prescription drug prior to reporting for such work or duty. To the extent that the supervisor reasonably determines that the employee is under the influence of alcohol or a prescription drug the employee shall be excused from work or duties, without pay, during the continuation of such impairment. Such a disclosure made voluntarily by the employee shall relieve him or her of the penalty of any sanction otherwise provided herein, but shall not thereafter exempt him or her from any

subsequent testing requirement or the sanction or penalty otherwise provided in connection therewith. (as added by Ord. #1999-6, June 1999)

4-802. Definitions. Unless otherwise defined for the purposes hereof the following definitions shall apply:

1. "Employee." A full or part-time person, temporary, permanent or probationary, including a volunteer fireman, employed by the municipality, including the mayor, aldermen, city manager, city attorney and city judge, but excluding members of boards, commissions or committees.

2. "Alcohol." The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

3. "Under influence of alcohol." Having a blood alcohol concentration of 0.04 or greater.

4. "Controlled substance." Amphetamines, cannabinoids, cocaine, opiates, and phencyclidine.

5. "Prescription drugs." Medications requiring a prescription of a licensed physician or other licensed medical practitioner which impairs the ability to safely perform a work function.

6. "Municipality." The City of Waverly, Tennessee.

7. "Drug." Controlled substances and prescription drugs. (as added by Ord. #1999-6, June 1999)

4-803. Pre-employment testing. 1. Applicants for positions of employment must submit to drug and alcohol testing as a pre-requisite to employment. A negative test result must be received before a final offer of employment is made. Refusal to submit to testing shall be disqualification from employment.

2. A positive test result for a prescription drug shall not be per se disqualifying if the applicant shall have disclosed the regular lawful use of such prescription drug prior to the testing and it is determined that its continued use will not unreasonably interfere with his or her performance of the job for which he or she has applied. (as added by Ord. #1999-6, June 1999)

4-804. Post-accident testing. 1. If an employee is involved in an accident which causes injury to the employee or to another person sufficient to require treatment for the injury, the employee shall submit to an alcohol and drug test.

2. An alcohol test must be administered within two (2) hours following an accident and in no case shall more than eight (8) hours elapse before the test is administered. The employee shall notify his or her supervisor immediately to insure action is taken to meet this testing requirement.

3. An employee shall refrain from using alcohol for eight (8) hours following the accident or until he or she has submitted to an alcohol test,

whichever first occurs, or shall be considered as having refused to submit to testing.

4. A drug test must be administered within thirty-two (32) hours following an accident. An employee must remain available for testing or shall be considered as having refused to submit to testing.

5. Refusal to comply with a testing requirement shall be grounds for termination of employment. (as added by Ord. #1999-6, June 1999)

4-805. Random testing. 1. Employees shall be subject to random testing for drugs and alcohol. Random testing shall be done on a percentage basis in a fair and equitable manner.

2. Testing may be done at any time an employee is at work. In the case of an employee who is not subject to regular or routine hours of employment the test shall be administered at the first reasonable opportunity after he or she has been randomly selected for such testing.

3. Selection of employees for random testing shall be by a computer-based random number generator matched with employee social security numbers such that every employee shall have an equal chance of being selected. In order to comply with testing requirements for holders of commercial drivers licenses (CDL) those employees holding a CDL shall be grouped into a separate database and shall be randomly selected from such separate database so as to assure that minimum annual testing requirements are met.

4. Random tests shall be unannounced and spread reasonably throughout the year.

5. Employees notified of selection for random testing shall proceed immediately to the designated collection site. (as added by Ord. #1999-6, June 1999)

4-806. Reasonable suspicion testing. An employee while operating a municipal vehicle or equipment or while engaging in municipal business, acting in an abnormal manner sufficient to cause reasonable suspicion that he or she has violated the provision of § 4-801 hereof, shall submit to an alcohol and/or drug test upon the approval and direction of the city manager or mayor. (as added by Ord. #1999-6, June 1999)

4-807. Return to duty testing. An employee allowed to return to duty following referral, evaluation, and treatment as a result of a positive alcohol or drug test shall be required to submit to a return-to-duty alcohol and/or drug test. A blood alcohol concentration test result of less than 0.02 and a negative drug test shall be required before return-to-duty is considered or allowed. (as added by Ord. #1999-6, June 1999)

4-808. Follow-up testing. In the event an employee is allowed to return to duty following referral, evaluation, and treatment, a minimum of six (6)

unannounced alcohol and/or drug tests shall be required during the succeeding twelve (12) months of employment. Follow-up testing may continue up to sixty (60) months following return to duty. (as added by Ord. #1999-6, June 1999)

4-809. Breath alcohol technician. Alcohol testing will only be performed by a certified Breath Alcohol Technician (BAT) trained in the principles of Evidential Breath Testing (EBT) device methodology, operation and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results. (as added by Ord. #1999-6, June 1999)

4-810. Evidential breath testing devices. Alcohol testing will only be performed using an EBT device approved by the National Highway Safety Administration (NHTSA). (as added by Ord. #1999-6, June 1999)

4-811. Alcohol testing procedures. 1. Alcohol testing shall be conducted in a location affording reasonable visual and aural privacy to the employee being tested. Unauthorized persons will not be permitted access to a testing location when a test is in progress.

2. BAT shall open an individually sealed mouthpiece and attach it to the EBT device. Employee shall be instructed to blow into mouthpiece forcefully until an adequate amount of breath has been obtained. EBT device must record the result, display it, and print the result immediately. The printed result will be recorded on a breath testing form by attaching with tamper proof tape.

3. If the result is less than 0.02 no further testing is authorized and the result shall be transmitted to the city manager and the mayor.

4. If the result is 0.02 or greater, a confirmation test must be performed to verify the initial test. The confirmation test will be conducted no less than 15 minutes nor more than 20 minutes after the initial test. In the event the initial and confirmation test results are different, the confirmation test result shall be deemed to be the final result upon which any action shall be based.

5. Following completion of the test, BAT will date and sign a certification on the form. The employee shall sign the certification and fill in the date on the form.

6. Refusal to submit to a test or to comply with testing procedures shall be treated the same as if the result is 0.04 or greater.

7. Alcohol test results shall be kept in a secure and confidential manner so that disclosure of information to unauthorized persons does not occur.

a. An employee shall have access to any of his/her alcohol test records upon written request.

b. Post-accident testing information must be disclosed to the National Transportation Safety Board as part of an accident investigation.

c. Records may be made available to a subsequent employer upon receipt of a written request from the employee.

d. Records may be disclosed to the employee or to the decision-maker in a lawsuit or other proceeding initiated by or on behalf of the employee. This includes worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.

8. An employee who attempts, but fails to provide an adequate amount of breath, will be directed to obtain, as soon as practical, an evaluation from a licensed physician acceptable to the city manager or the mayor concerning any claim of medical inability to provide an adequate amount of breath based on a medical reason. If no medical reason exists to prevent an employee from providing an adequate amount of breath, he or she shall be regarded as having refused to take the test. (as added by Ord. #1999-6, June 1999)

4-812. Urine specimen collection procedures. 1. Procedures for collection, shipment and accession of urine specimens to a designated laboratory shall account for the integrity of each urine specimen and shall tract its handling and storage from point of collection to final disposition of the specimen.

2. Urine specimen collections may be done in-house or the services of an outside source such as a doctor's office, clinic, hospital or other facility may be used that meets security requirements. Collection sites shall be secure locations to allow maximum privacy to include a toilet for completion of urination and a source of water for washing hands which is excluded from the area provided for urination.

3. No person who is not involved in the collection process shall be present or gain access to a collection area during the collection process. Specimens must remain in the direct control of the collection site collector. No person other than the collection site collector may handle specimens prior to the same being placed securely in a mailing container.

4. An employee reporting to a collection site for specimen collection shall present a photo I.D. and shall remove all unnecessary outer garments (i.e., coat or jacket), and secure all personal belongings except his or her wallet.

5. An employee shall be allowed to provide a urine specimen in the privacy of a stall.

6. If the collection site collector believes tampering or adulteration has occurred, a second specimen shall be collected immediately under direct observation of a same-gender collection site collector. Both samples shall be sent to the laboratory.

7. Refusal to submit to a test shall be considered as a verified positive result.

8. In all cases the employee and the collection site collector shall keep the specimen in view at all times prior to being sealed and labeled. The

specimen shall be labeled with tamper proof seals. The employee shall sign appropriate places on the chain of custody document and initial the seal on the bottle attesting that the specimen is specific to the employee providing the sample. (as added by Ord. #1999-6, June 1999)

4-813. Testing methodology. 1. Every urine specimen shall undergo an initial screening followed by confirmation of all positive screen results.

2. The laboratory shall report the test results directly to the city manager and the mayor within five (5) working days. The report shall indicate the drug/metabolites screened, whether the results are positive or negative, the specimen number assigned by the collection site collector and the laboratory identification number.

3. A portion of the urine specimen shall be retained by the laboratory for possible retesting for up to thirty (30) days. (as added by Ord. #1999-6, June 1999)

4-814. Review of results. 1. A licensed physician possessed of a knowledge of drug abuse disorders may be utilized to review and interpret positive results obtained from the laboratory and to assess and determine whether alternate medical explanations can account for a positive test result. The physician may conduct a medical interview of the employee, review the employee's medical history and review any other relevant bio-medical factors.

2. During the course of an interview of an employee who tested positive, if the physician learns of a medical condition which could, in reasonable medical judgment, pose a risk to safety, the physician shall report that information to the city manager and the mayor. (as added by Ord. #1999-6, June 1999)

4-815. Specimen re-testing requested by employee. An employee who has a confirmed positive drug test has 72 hours in which to request a re-testing of the split specimen. If the employee makes such a request, the laboratory shall be requested to provide the specimen to another certified laboratory for analysis. If the analysis of the specimen fails to reconfirm the presence of the drug or drug metabolite found in the primary specimen, or if the specimen is unavailable, inadequate for testing, or not susceptible to test, the re-test will be canceled. Re-testing of a specimen and the associated costs is the responsibility of the employee. (as added by Ord. #1999-6, June 1999)

4-816. Consequence of positive drug or alcohol test result of an employee.
1. An employee, except the mayor or an alderman, as a result of testing, with a verified drug test result and/or an alcohol breath test with a confirmed test result of 0.04 or greater shall be immediately terminated from his or her employment. In the case of the mayor or an alderman, he or she shall be subject

to public censure by the board of mayor and aldermen at any regular or special meeting thereafter.

2. If a confirmed alcohol breath test result is 0.02 or greater, but less than 0.04, the employee, except the mayor or an alderman, shall be subject to disciplinary action including, but not necessarily limited to a specified duration of suspension followed by a retest of the employee at his or her expense. In the case of the mayor or an alderman, he or she shall be subject to public censure by the board of mayor and aldermen at any regular or special meeting thereafter.

3. In all cases of a verified positive drug test result and/or a confirmed alcohol breath test result the employee, except in the case of the mayor or an alderman, shall be referred to a substance abuse professional for evaluation, referral and treatment as a condition of any retention of employment. The employee is responsible for any expense incurred for such treatment or rehabilitation subject to any health insurance benefits which may apply. (as added by Ord. #1999-6, June 1999)

4-817. Self-reporting. 1. An employee who approaches the city manager or mayor for assistance through rehabilitation for drug or alcohol abuse prior to testing, shall be afforded positive consideration for a medical leave of absence, without pay, for treatment and/or counseling to be pursued.

2. An employee regularly taking a lawfully prescribed prescription drug shall report that fact to his or her immediate supervisor and furnish a copy of the prescription form for inclusion in his or her personnel record. (as added by Ord. #1999-6, June 1999)

4-818. Employee acknowledgment of policy. Within thirty (30) days from the effective date hereof all employees, except the mayor and an alderman, as a condition for continued employment and all new hires as a condition for employment shall execute and file with the municipality as a part of his or her personnel record the following statement:

"I have received a copy of the City of Waverly Policy on Alcohol and Drug Testing. I understand and agree to abide by the policy." (as added by Ord. #1999-6, June 1999)

4-819. Repeal of existing policies. All existing policies of the municipality relative to drug or alcohol use by or testing of employees are hereby abrogated, rescinded and repealed, except in the case of a more stringent prohibition or administrative policy relative to use of drugs or alcohol while on duty as may apply to a public safety employee. (as added by Ord. #1999-6, June 1999)

CHAPTER 9

SEXUAL HARASSMENT

SECTION

4-901. General policy.

4-902. Definition.

4-903. Employee complaints.

4-904. Investigation.

4-905. Corrective action.

4-906. Determination of lack of basis for charge.

4-907. Review of determination.

4-901. General policy. The City of Waverly has a strict policy against sexual harassment in the municipal employment workplace. Sexual harassment in the municipal workplace by an employee or appointed or elected official will not be tolerated. (as added by Ord. #2001-2, March 2001)

4-902. Definition. Sexual harassment is unwanted sexual conduct or conduct based upon sex by a supervisor or fellow employee or others in the municipal workplace that adversely affects an employee's job or job performance. Examples of conduct that may constitute sexual harassment are sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented devices, pictures or photographs. (as added by Ord. #2001-2, March 2001)

4-903. Employee complaints. Any municipal employee who believes that he or she has been subjected to sexual harassment should immediately report this to the city manager or, if the city manager is the one against whom the complaint is made, then to the mayor. The matter will be handled with as much confidentiality as possible. There will be no retaliation against an employee who makes a complaint of sexual harassment or who is a witness to such harassment. (as added by Ord. #2001-2, March 2001)

4-904. Investigation. The city manager, or the mayor, or the latter's designee, will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. In performing the investigation, the investigator will strive to be fair to all parties involved. (as added by Ord. #2001-2, March 2001)

4-905. Corrective action. If the fair investigation determines that sexual harassment has occurred, the city manager or the mayor, as the case may be, will take corrective action. This corrective action may include a reprimand, demotion, discharge, or other appropriate action against the offender. If by an

elected or appointed official the results shall be reported to the board of mayor and aldermen who will take corrective action which may include dismissal, reprimand, public or private censure as appropriate. Corrective action will reflect the severity of the improper conduct. The complaining employee will be notified of the corrective action taken. (as added by Ord. #2001-2, March 2001)

4-906. Determination of lack of basis for charge. If it is determined that no sexual harassment occurred or that there was insufficient evidence that sexual harassment occurred then such finding will be communicated to the complaining employee along with the reasons for such determination. (as added by Ord. #2001-2, March 2001)

4-907. Review of determinations. At the request of the complainant or the offending employee a neutral committee will be established and commissioned to review and further investigate a complaint and any initial determination thereof. The recommendation of the neutral committee will be implemented in the same manner. (as added by Ord. #2001-2, March 2001)

CHAPTER 10

E-MAIL POLICY

SECTION

- 4-1001. General.
- 4-1002. Purpose and scope.
- 4-1003. Ownership.
- 4-1004. Usage policy.
- 4-1005. Monitoring.
- 4-1006. Personal use.
- 4-1007. Authorized use.
- 4-1008. Use subject to written approval.
- 4-1009. Encrypting e-mail message.
- 4-1010. Prohibited uses.
- 4-1011. Confidential information.
- 4-1012. Messages to legal counsel.
- 4-1013. Copyright infringement.
- 4-1014. Policy violations.
- 4-1015. Acknowledgment.

4-1001. General. This enactment shall be known as the "policy for the use and monitoring of electronic mail" or as the "e-mail policy." (as added by Ord. #2001-10, June 2001)

4-1002. Purpose and scope. Electronic mail (e-mail) is provided to selected employees of the municipality for use in performing official duties. The e-mail policy sets forth rules and expectations for the proper use of electronic mail. All electronic mail is a municipal record and may be considered a "public record" for the purposes of the Tennessee Public Records Act. (as added by Ord. #2001-10, June 2001)

4-1003. Ownership. All municipal-owned electronic mail systems, computers and other hardware, software, and temporary or permanent files thereon, e-mail messages and any related systems or devices used in the transmission, receipt, or storage of e-mail through or over such municipal-owned facilities are the property of the municipality. (as added by Ord. #2001-10, June 2001)

4-1004. Usage policy. The municipal e-mail system, like other municipal assets, shall be used only for official business for the benefit of the municipality. Use of e-mail that violates these policies or state and/or federal law is prohibited and may lead to disciplinary action up to and including termination. Any and all statements and opinions made by individuals using e-mail, whether implied

or expressed, are those of the individual and not necessarily the opinions of the municipal corporation or its officials. (as added by Ord. #2001-10, June 2001)

4-1005. Monitoring. Municipal officials may monitor messages under certain circumstances. Supervisors may monitor, retrieve, read and inspect the contents of any equipment, files, calendars, or electronic mail of their subordinates in the normal course of their supervisory responsibilities and without the express permission from the users. Reasons for inspecting, monitoring or retrieving e-mail messages include an investigation triggered by indications of impropriety, to locate substantive information relevant to a breach of security of the e-mail system, to determine and correct system hardware or software problems, to perform regular system maintenance, to respond to a lawsuit or other legal action involving the municipality, to investigate reasonable suspicion of a crime or a violation of the e-mail policy, to comply with lawful requests under the Public Records Act, to respond to law enforcement officials if legally required to do so, and to perform work or provide a service when the user-employee is unavailable. (as added by Ord. #2001-10, June 2001)

4-1006. Personal use. Personal messages, although not permitted, will be treated no differently than other messages and may be accessed, monitored, reviewed, copied, deleted, or disclosed. (as added by Ord. #2001-10, June 2001)

4-1007. Authorized uses. Supervisors or department heads may authorize the use of e-mail to send and receive messages and subscribe to list-servers from recognized professional organizations and entities relating to an employee's official duties. All employees are authorized to use e-mail as they would otherwise use any other official communication tool. Communication by e-mail is encouraged when it results in a more efficient or effective means of communication. (as added by Ord. #2001-10, June 2001)

4-1008. Use subject to written approval. Using hardware, related computer equipment, and software not owned or purchased by the municipality for official e-mail related to municipal business requires prior written approval of the city manager. (as added by Ord. #2001-10, June 2001)

4-1009. Encrypting e-mail messages. Unless specifically authorized by the city manager, and not then without depositing the encryption key with the city manager, no employee shall encrypt e-mail messages. (as added by Ord. #2001-10, June 2001)

4-1010. Prohibited uses. Except as otherwise provided herein, there is strictly prohibited the intercepting, eavesdropping, recording, or altering another person's e-mail message; forwarding chain letters; adopting the identity or another person on any e-mail message; attempting to send electronic mail

anonymously; using another person's password; misrepresenting one's self or affiliation with the municipality in an e-mail message; composing e-mail that contains racial, religious, or sexual slurs or jokes; sending harassing, intimidating, abusive, or offensive material to or about others; using e-mail for any personal commercial or promotional purpose, including personal messages offering to buy or sell goods or services; using e-mail to conduct employee organization, association, or union business; or sending or receiving any software in violation of copyright laws. (as added by Ord. #2001-10, June 2001)

4-1011. Confidential information. Employees must exercise a greater degree of caution in transmitting confidential information via e-mail than with other forms of communication because it facilitates with ease the way for another person to redistribute such information almost effortlessly. Confidential information may not be transmitted or forwarded to other employees inside or outside the municipal government who do not have a "need to know." To reduce the chance that confidential information inadvertently may be sent to the wrong person, employees shall avoid misuse of distribution lists and make sure that all lists are current. Confidential information includes, but is not limited to, information from a personnel file, including medical records; information about undercover detectives such as home addresses, telephone numbers, identities of family members; social security numbers; information relating to an administrative hearing or litigation of a civil or criminal nature; information that, if released, would give a competitive advantage to one prospective bidder over another for municipal contracts; private correspondence of elected officials; trade secrets or commercial or financial information of outside businesses; information regarding an ongoing criminal investigation; and taxpayer information. E-mail messages that contain confidential information shall have a confidentiality declaration printed at the top of the message as follows: "THIS MESSAGE CONTAINS CONFIDENTIAL INFORMATION. UNAUTHORIZED USE OR DISCLOSURE IS PROHIBITED." (as added by Ord. #2001-10, June 2001)

4-1012. Messages to legal counsel. All messages to and from legal counsel seeking or giving legal advice shall be marked with the following legend in all capital letters at the top of the page: "CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED INFORMATION." (as added by Ord. #2001-10, June 2001)

4-1013. Copyright infringement. The ability to attach a document to an e-mail message for distribution increases the risk of copyright infringement prohibited by federal law. Individual users will be liable for the unauthorized copying and distribution of copyrighted material through e-mail. Copyrighted material of a third party, such as software, database files, documentation, articles, graphics files, and downloaded information, shall not be attached to

e-mail and transmitted unless it is confirmed in advance from appropriate sources that the municipality has the right to copy or distribute such material. (as added by Ord. #2001-10, June 2001)

4-1014. Policy violations. Violations of the e-mail policy will be reviewed on a case-by-case basis and can result in disciplinary action against the violator up to and including termination. (as added by Ord. #2001-10, June 2001)

4-1015. Acknowledgment. Each employee using municipal e-mail facilities as a condition therefor shall sign the following statement which shall be included as a permanent item in his or her official personnel file: "I have received and read a copy of the Policy for the Use and Monitoring of E-mail. I understand that all municipal E-Mail communications systems and the information received from, transmitted by, or stored in these systems are the property of the municipality. Except with respect to certain content deemed confidential by state and federal law, I have no expectation of privacy in connection with any E-Mail messages, the use of municipal equipment, or the transmission, receipt, or storage of information with this equipment. I consent to the monitoring of my use of E-Mail at any time deemed necessary in accordance with the E-Mail Policy. Monitoring may include reading and printing out all electronic mail entering, stored in, or disseminated by the municipal system and equipment. I will not use a code, access a file, or retrieve any stored information unless authorized to do so. This consent is a condition of my employment and/or continued association with the municipality. I understand all the provisions specified in the E-Mail Policy. I recognize that a violation of that policy may result in disciplinary action including possible termination." (as added by Ord. #2001-10, June 2001)

CHAPTER 11

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-1101. Purpose.
- 4-1102. Applicability.
- 4-1103. Administration.
- 4-1104. Program plan.
- 4-1105. Applicable standards.
- 4-1106. Variance procedure.
- 4-1107. Training.
- 4-1108. Powers of director.
- 4-1109. Abatement of dangers.
- 4-1110. Incident reporting.

4-1101. Purpose. 1. Pursuant to chapter 3 of title 50, Tennessee Code Annotated (hereinafter referred to as "TOSHA") there is established an occupational safety and health program (the "program") for the employees of the City of Waverly (the "city").

- 2. It is the intent of the program to:
 - a. Provide a safe and healthful place and conditions of employment.
 - b. Articulate and promote management commitment and employee involvement.
 - c. Continually analyze worksites to identify all hazards and potential hazards.
 - d. Develop and maintain methods for preventing and controlling existing or potential hazards.
 - e. Train managers, supervisors, and employees to understand and deal with worksite hazards.
 - f. Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
 - g. Make, keep, preserve, and make available to the Tennessee Department of Labor and Workforce Development ("department") adequate records of all occupational accidents, illnesses and personal injuries involving city employees.
 - h. Provide reasonable opportunity for participation by city employees in effectuating the objectives of the program, including opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

- i. Provide for education and training of employees to promote the fair and efficient administration of occupational safety and health standards. (as added by Ord. #2003-44, Dec. 2003)

4-1102. Applicability. The provisions of the program apply to all employees of the city, whether part-time or full-time, seasonal or permanent. (as added by Ord. #2003-44, Dec. 2003)

4-1103. Administration. The city manager is designated director of occupational safety and health ("director") and shall perform duties and exercise powers assigned to such position pursuant hereto. (as added by Ord. #2003-44, Dec. 2003)

4-1104. Program plan. 1. A plan of operation for the program (the "plan") is adopted and implemented to establish guidelines and procedures as follows:

- a. Occupational safety and health standards promulgated by the department in accordance with TOSHA which relate to conditions, practices, means, methods, operations and processes or to the use of equipment or personal protective equipment to provide safe and healthful conditions and places of employment shall be followed by the city and all of its employees.

- b. City shall furnish each employee conditions of employment and a place of employment free from recognized hazards that cause or are likely to cause death or serious injury or harm.

- c. City shall continually inspect all work sites to insure that provisions of the program are observed and enforced.

- d. City shall notify an employee who has been or is being exposed in a biologically significant manner to harmful agents or materials in excess of applicable standards and of the corrective action being taken.

- e. City shall notify employees of their rights and duties under the program and under TOSHA.

- f. A notice shall be placed on bulletin boards and other places of common passage of applications for permanent or temporary orders granting city a variance from any provision of TOSHA or any promulgated standard or regulation under it.

- g. Employees shall have opportunity to participate in any hearing which concerns an application for a variance from a standard or regulation promulgated under TOSHA.

- h. An employee exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided by any applicable standard shall be provided information on significant hazards of such exposure, relevant symptoms, and proper conditions for safe use and of corrective action being taken.

i. An employee has the right to request an inspection and consult with inspectors at the time of any physical inspection of a worksite.

j. An employee may bring to the attention of inspectors any violation or suspected violation of applicable standards or any other health or safety hazards.

k. No employee will be discharged not discriminated against because such employee files a complaint or institutes or causes to be instituted any proceeding or inspection under or relating to the program.

l. Director may designate persons he deems necessary to carry out his powers, duties, and responsibilities under the program.

m. Director may delegate his power to make inspections, provided the procedures employed are as effective as those employed by director.

n. Director shall employee measures and coordinate activities to promote efficiency and minimize any inconveniences under the program.

o. Director may request qualified technical personnel to assist in making compliance inspections, accident investigations, or as he otherwise deems necessary and appropriate in order to carry out his duties under the program.

p. Director shall maintain and prepare all reports to the department as required by TOSHA.

q. Director shall make inspections of all facilities and work sites where employees are employed and correct any hazards or exposures observed and make inspections required by complaints submitted by or requested by employees.

r. The administrative and operational heads of each department, division, board, or other agency of city shall:

i. Be responsible for implementation of the program within their respective areas.

ii. Follow the directions of the director on all issues involving occupational safety and health as set forth in the plan.

iii. Comply with all abatement orders issued in accordance with the provisions of the plan or request a review of an order by the director within the abatement period.

iv. Make periodic safety surveys of the operations under his jurisdiction to become aware of hazards or of standards violations that may exist and make an attempt to immediately correct such hazards or violations.

v. Investigate all occupational accidents, injuries or illnesses reported to him and report the same to the director

along with findings and/or recommendations. (as added by Ord. #2003-44, Dec. 2003)

4-1105. Applicable standards. The standards adopted under the program are the applicable standards developed and promulgated under TOSHA or those which may, in the future, be developed and promulgated. Additional standards may be promulgated by the city as it deems necessary for the safety and health of its employees. (as added by Ord. #2003-44, Dec. 2003)

4-1106. Variance procedure. 1. Director may apply to the department for a variance as a result of a complaint from an employee or arising from his knowledge of certain hazards or exposures.

2. Applications for variances shall be prepared in writing and contain:

a. Specification of the standard or portion thereof for which the variance is sought.

b. Detailed statement of the reasons why city is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

c. Statement of the steps taken and to be taken to protect employees against the hazard covered by the standard.

d. Statement when city expects to comply and what steps have or will be taken to come into compliance with the standard.

e. Certification that city has informed employees, their authorized representatives, and/or interested parties by giving them a copy of the application request, posting the application at the places where employee notices are normally posted and by other appropriate means.

f. Certification that employees have been informed of their right to petition the department for a hearing on the application. (as added by Ord. #2003-44, Dec. 2003)

4-1107. Training. 1. Suitable safety and health training for employees will be established. Such training as a minimum will:

a. Instruct employees to recognize and avoid hazards or unsafe conditions and in standards and regulations applicable to employee work environment and to control or eliminate hazards, unsafe conditions, or other exposures to occupational illness or injuries.

b. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, and personal hygiene, which may be required.

c. Instruct employees exposed to environments where harmful plants or animals are present how to best avoid injury or exposure and first aid procedures to be followed in the event of injury or exposure.

d. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in safe handling and use and awareness of specific requirements contained in Subparts H and M and other applicable subparts of TOSHA standards 1910 and 1926.

e. Instruct employees on hazards and dangers of confined or enclosed spaces.

2. Employees will be given general instruction on hazards involved, precautions to be taken, and use of personal protective and emergency equipment required and on all specific standards or regulations applicable to work in dangerous or potentially dangerous areas.

3. Immediate supervisors of employees performing work in a confined or enclosed space shall instruct employees on dangers and hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (as added by Ord. #2003-44, Dec. 2003)

4-1108. Powers of director. 1. In order to carry out the purposes of the program, the director is authorized:

a. To enter any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the city.

b. To inspect and investigate any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any supervisor, operator, agent, or employee working therein.

2. If an imminently dangerous situation is found, alleged, or otherwise brought to the attention of the director during a routine inspection, he shall immediately inspect the imminent danger situation before inspecting the remaining portions of the establishment, facility, or worksite.

3. A representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director during physical inspections of any worksite for the purpose of aiding such inspection.

4. Accompaniment may be denied to any person whose conduct interferes with a full and orderly inspection.

5. Inspection shall be conducted in a manner to preclude unreasonable disruptions of the operations of the workplace.

6. Interviews of employees during the course of an inspection may be made when considered essential to investigate techniques.

7. Advance notice of inspections will not be given unless necessary to conduct an effective inspection or investigation.

8. The director need not personally make periodic inspections of each and every worksite, but may delegate the responsibility for such inspections to supervisors or other personnel provided:

a. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.

b. Records are made of the inspections and of any discrepancies found and forwarded to the director.

9. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Inspection records shall be subject to review by the department. (as added by Ord. #2003-44, Dec. 2003)

4-1109. Abatement of dangers. 1. Discovery, allegation, or report of an imminent danger shall be handled in accordance with the following procedures:

a. The director shall immediately be informed of the alleged imminent danger situation and shall immediately ascertain whether there is a reasonable basis for the allegation.

b. If the alleged imminent danger situation is determined by the director to have merit, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

c. As soon as the inspection is concluded the conditions or practices existing which constitute an imminent danger shall be corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area if deemed necessary.

d. The administrative or operational head of the workplace in which the imminent danger exists, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director and to the mutual satisfaction of all parties involved.

e. An imminent danger shall be deemed abated if:

i. The immediate danger has been eliminated by removal of employees from the area of danger.

ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

f. A written report shall be made by the director describing in detail the imminent danger and its abatement.

g. Refusal to abate an imminent danger situation shall be reported to the director immediately.

h. The director shall take whatever action may be necessary to achieve abatement.

i. As a result of an inspection or investigation for any worksite not in compliance with applicable standards, rules or regulations, the director shall:

i. Issue an abatement order to the head of the worksite.
ii. Post a copy of the abatement order at or near the location.

j. Abatement orders shall contain the following information:

i. The standard, rule, or regulation found to be violated.
ii. A description of the nature and location of the violation.
iii. A description of what is required to abate or correct the violation.

iv. A reasonable period of time during which the violation must be abated or corrected.

k. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in a effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue a final abatement order which shall be binding on all parties.

l. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to the program.

m. An employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the city. It shall be the duty of the city manager to administer discipline by taking action in one of the following ways as appropriate and warranted:

i. Oral reprimand;
ii. Written reprimand;
iii. Suspension for three (3) or more working days;
iv. Termination of employment. (as added by Ord.

#2003-44, Dec. 2003)

4-1110. Incident reporting. Employees shall report all accidents, injuries, or illnesses to the director as soon as possible, but no later than twenty-four (24) hours after occurrence. Such report may be verbal or in writing. All fatalities or accidents involving hospitalization shall be reported to the director and/or record keeper immediately, either by telephone or verbally, and will be

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followed by a written report within four (4) hours after their occurrence. The director will cause an investigation to be made as he deems appropriate. (as added by Ord. #2003-44, Dec. 2003)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. PARTICIPATION IN LOCAL GOVERNMENT INVESTMENT POOL.
5. PURCHASING; PUBLIC ADVERTISING AND COMPETITIVE BIDDING.
6. PURCHASING, LEASING, AND DISPOSAL OF MUNICIPAL PERSONAL PROPERTY.
7. GOVERNMENT AUDITING STANDARDS BOARD (GASB).

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES

SECTION

- 5-101. Levy of taxes.
- 5-102. Rate of taxation.
- 5-103. Delinquency - penalty and interest.

5-101. Levy of taxes. There is hereby levied upon all real and personal property in the City of Waverly, Tennessee, not otherwise exempt by law, to be paid by the owner thereof, taxes annually according to the value thereof as determined by the Assessor of Property of Humphreys County, Tennessee and which said taxes shall be assessed on a calendar year annual basis and when assessed and collected shall be used for general corporate purposes in the general fund of the City of Waverly, Tennessee. (1984 Code, § 6-101)

5-102. Rate of taxation. The taxes so levied on such real and personal property according to value shall be at a rate as shall be fixed annually by the

¹Charter references

- Appropriations: § 18.
- Collection of delinquent taxes: § 28.
- Distress warrants: § 30.
- Limitation on appropriations: § 16.
- Property tax assessment: § 25.
- Property taxes: § 26.
- Tax rate: § 15.

board of mayor and aldermen of the City of Waverly, Tennessee at the time of the adoption of a budget and the making of appropriations for the City of Waverly. (1984 Code, § 6-102)

5-103. Delinquency - penalty and interest. (1) All real and personal property taxes levied and assessed pursuant to this chapter shall become delinquent on and after March 1 of the year following the year for which such taxes shall have been assessed and levied.

(2) If such taxes shall not have been paid on or before the date fixed for the delinquencies thereof, to the amount of tax due and payable, a penalty of one-half of one percent (.5%) and interest of (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month. (1984 Code, § 6-103, as amended by Ord. #1985-5, June 1985)

CHAPTER 2

PRIVILEGE TAXES

SECTION

- 5-201. Scope of taxation.
- 5-202. Definitions.
- 5-203. Prohibition and penalties.
- 5-204. Administration of chapter.
- 5-205. Intention of chapter.
- 5-206. City payment of taxes to state.

5-201. Scope of taxation. Pursuant to Tennessee Code Annotated, § 67-4-701 et seq., known as the "Business Tax Act" of the State of Tennessee, there is hereby levied annually taxes for the privilege of making sales or performing services within the City of Waverly by any person engaged in any of the vocations, occupations, business or business activity declared so taxable pursuant to the said "Business Tax Act" by municipalities in the State of Tennessee to the fullest extent therein provided and according to the classifications and upon and at the maximum rates of taxation therein allowed to be imposed by municipalities and payable in such manner and at such times as in said "Business Tax Act" provides. (1984 Code, § 6-201)

5-202. Definitions. The definitions for the operation and enforcement of this chapter shall be in accordance with and be the same definitions as contained in the aforesaid "Business Tax Act." (1984 Code, § 6-202)

5-203. Prohibition and penalties. (1) No person shall exercise any such privilege without holding a then currently effective license, tax receipt or other indicia of payment of the taxes imposed by this chapter and which shall have been issued by the city recorder's office to such person upon compliance with the provisions of this chapter and the payment of the appropriate taxes therefor.

(2) Any person who shall exercise such privileges without having complied with the provisions hereof shall, in addition to being liable for the taxes otherwise required to be paid hereby, be deemed guilty of a offense committed against the city and upon a finding of guilt thereof such person shall be fined under the general penalty provisions of this code and shall pay the court costs imposed in addition thereto. (1984 Code, § 6-203)

5-204. Administration of chapter. The provisions for the administration, collection, computation, relative to exemptions, credits allowable, making of returns and payments, requirements for the keeping of books and records and disclosure of information, and the other provisions of Tennessee Code Annotated, § 67-1-701 et seq., governing the same, are hereby adopted as the

rules, regulations and provisions for the administration of this chapter by the City of Waverly, Tennessee. (1984 Code, § 6-204)

5-205. Intention of chapter. It is the intention of this chapter to provide for the full taxation of all privileges allowed to be taxed by municipalities pursuant to the "Business Tax Act" of the State of Tennessee and that the administration of the same within the City of Waverly shall be in accordance with the allowance of provisions of said "Business Tax Act." (1984 Code, § 6-205)

5-206. City payment of taxes to state. The City of Waverly shall pay to the State of Tennessee as shall be required to be paid by local collectors annually, such percentage of such taxes collected as may by law be due the State of Tennessee. (1984 Code, § 6-206)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the City of Waverly of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1984 Code, § 6-301)

¹State law reference

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

CHAPTER 4

PARTICIPATION IN LOCAL GOVERNMENT INVESTMENT POOL

SECTION

- 5-401. Participation in the program.
- 5-402. Designation as depository.
- 5-403. Transfer between official depositories of the city.
- 5-404. Interest earnings.
- 5-405. Administrative fees of LGIP.
- 5-406. Designation of city's financial officer or agent.

5-401. Participation in the program. The City of Waverly, Tennessee, as a municipal corporation and entity, is hereby authorized to participate fully and to all intents and purposes in the "Local Government Investment Pool" (hereinafter referred to as LGIP) of the State of Tennessee as administered by the Treasury Department of the State of Tennessee and as created by Chapter 545 of the Public Acts of the 91st General Assembly of the State of Tennessee. (1984 Code, § 6-401)

5-402. Designation as depository. To the extent required such LGIP is hereby designated as an official depository for any and all city funds subject to the terms and conditions and requirements as established from time to time by the legislation creating the LGIP and any and all regulations duly and lawfully adopted thereunder by such administrative officer as may be entitled to adopt such regulations. (1984 Code, § 6-402)

5-403. Transfer between official depositories of the city. Any and all other official depositories of the City of Waverly, Tennessee are authorized to transfer funds to any accounts as may be established by the administrator of the LGIP from time to time for the purpose of accomplishing the deposit of city funds into the LGIP as contemplated under the laws and regulations applicable thereto. (1984 Code, § 6-403)

5-404. Interest earnings. Any and all interest earned on the deposits of the City of Waverly, Tennessee in the LGIP shall be considered a part of the particular fund on which the income was earned and shall be includable as a part of the revenues into such particular fund. (1984 Code, § 6-404)

5-405. Administrative fees of LGIP. The city shall pay any and all administrative fees to the LGIP as required by law or regulation and in accordance with the method of payment as may be from time to time provided therefor. (1984 Code, § 6-405)

5-406. Designation of city's financial officer or agent. The individual holding the office of city manager of the City of Waverly, Tennessee, from time to time, and such officer is hereby designated as the "financial officer" of the City of Waverly, Tennessee insofar as the participation in the LGIP as herein authorized is concerned and is authorized and empowered to act for and on behalf of the City of Waverly in regard to all transactions in connection therewith. (1984 Code, § 6-406)

CHAPTER 5

PURCHASING; PUBLIC ADVERTISING AND COMPETITIVE BIDDING

SECTION

5-501. Public advertising and competitive bidding required if gross amount exceeds \$5,000.

5-502. Purchasing officials to seek best price.

5-503. City manager authorized for purchases not over \$5,000.

5-501. Public advertising and competitive bidding required if gross amount exceeds \$5,000. No public advertisement nor formal competitive bidding process shall be required for any purchase, lease or lease-purchase of any property, commodity, service or supply required for public purposes unless the gross amount therefor or the reasonably anticipated gross amount therefor shall exceed \$5,000. (Ord. #1996-14, § 1, Aug. 1996)

5-502. Purchasing officials to seek best price. Notwithstanding the threshold amount under which public advertisement and formal competitive bidding shall not be required it is the policy of the city that all purchasing officials seek the most competitive and best possible price available to the city for any property, supply, service, commodity or other object for which public funds are to be expended. (Ord. #1996-14, § 2, Aug. 1996)

5-503. City manager authorized for purchases not over \$5,000. The city manager is generally authorized to enter into, execute and deliver for and on behalf of the city such purchasing orders, contracts, requisitions or leases as may be required or appropriate for purchases or leases made for property, supplies, services or commodities costing not over \$5,000 provided an existing appropriation has previously been made therefor and the object thereof has been previously authorized by the board of mayor and aldermen and the funds appropriated therefor are otherwise available and unexpended. (Ord. #1996-14, § 3, Aug. 1996)

CHAPTER 6

PURCHASING, LEASING AND DISPOSAL OF
MUNICIPAL PERSONAL PROPERTY

SECTION

- 6-101. Purpose.
- 6-102. Definitions.
- 6-103. Purchasing agent.
- 6-104. Powers and duties of the city manager.
- 6-105. Available appropriation required.
- 6-106. Gifts and favors prohibited.
- 6-107. Evasion prohibited.
- 6-108. Small purchases.
- 6-109. Purchases based on informal bids.
- 6-110. Purchases or leases based on formal bids.
- 6-111. Exceptions.
- 6-112. Waiver based on other governmental purchases.
- 6-113. Personal property declared surplus.
- 6-114. Personal property valued at less than five thousand dollars (\$5,000).
- 6-115. Personal property valued at five thousand dollars (\$5,000) or more.

6-101. Purpose. The purpose of this chapter is to provide a legally sufficient, efficient, and equitable system of municipal purchasing to obtain the maximum purchasing value of public funds utilized in procurement; to provide for a procurement system of quality and integrity; and to provide for the sale of surplus personal property in a manner that yields the highest sales price. (as added by Ord. #2006-21, Nov. 2006)

6-102. Definitions. When used in this chapter the following words, terms, and phrases and their derivations have the meanings ascribed except where the context clearly indicates a different meaning:

- (1) "City" means the City of Waverly, Tennessee.
- (2) "Board" means the incumbent board of mayor and aldermen of the city at the time applicable.
- (3) "City manager" means the incumbent city manager at the time applicable.
- (4) "Contract" means any agreement regardless of form or title for the procurement by lease, purchase or lease-purchase or for sale and disposition of city property.
- (5) "Gifts" or "favors" means any thing or service of value.
- (6) "Personal property" means goods, supplies, apparatus, materials, equipment, and other forms of tangible personal property. (as added by Ord. #2006-21, Nov. 2006)

6-103. Purchasing agent. The city manager is designated purchasing agent; provided, however, he or she may delegate some or all of the functions or powers thereof to a subordinate city employee. (as added by Ord. #2006-21, Nov. 2006)

6-104. Powers and duties of the city manager. As purchasing agent the city manager has the following powers and duties:

(1) Procure or oversee the procurement of all personal property needed by the city and the advertisement for bids for the procurement of personal property. Consistent with the chapter and the general laws of the State of Tennessee applicable the city manager may adopt operating procedures relating to the lease, purchase, or lease-purchase of personal property for the city.

(2) Provide for and oversee development of specifications for personal property to be leased or purchased by the city, administer lease and purchase contracts to which the city is a party, and provide for inspecting, accepting or rejecting personal property leased or purchased by the city.

(3) Process all claims for loss, damage, breakage, or shortage, and claims for refund and adjustment concerning the lease or purchase of personal property for the city.

(4) Exercise general supervision and control over all inventories of personal property belonging to the city and provide for the transfer between city departments of surplus personal property belonging to the city.

(5) Require bonds, insurance, and other forms of protection for the city in the process of procuring personal property for the city.

(6) Terminate solicitations for bids for lease, purchase or sale of personal property when in the city's best interest to do so.

(7) Reject bids when in the city's best interest to do so.

(8) Following consultation with the city attorney terminate contracts or pursue other remedies when the parties with whom the city is contracting have breached the contract.

(9) Sell surplus personal property belonging to the city as prescribed in this chapter. (as added by Ord. #2006-21, Nov. 2006)

6-105. Available appropriation required. The city manager shall not approve any contract for the lease or purchase of personal property until there is to the credit of the using department or agency a sufficient unencumbered appropriation balance in excess of all unpaid obligations to defray the amount payable for such contract for the then current fiscal year. (as added by Ord. #2006-21, Nov. 2006)

6-106. Gifts and favors prohibited. The city manager and every officer and employee of the city whose duties involve the procurement of sale of personal property, or the preparation of specifications for the lease or purchase of personal property for the city or whose duties include deciding which personal

property should be declared surplus are expressly prohibited from accepting any gift or favor, directly or indirectly, from any person, company, firm, or corporation which seeks to do business with or contract with the city or who has contracted with the city within the past year, or to whom any purchase order or contract is awarded, or to whom any surplus personal property is sold, except where such gift or favor is given for the use and benefit of the city. (as added by Ord. #2006-21, Nov. 2006)

6-107. Evasion prohibited. No lease, purchase or sale of personal property shall be divided for the purpose of evading the provisions of this chapter. (as added by Ord. #2006-21, Nov. 2006)

6-108. Small purchases. Leases or purchases of personal property involving an estimated expenditure of not more than four thousand dollars (\$4,000) of public money do not require and may be made without public advertisement or competitive bidding; provided, however, competition should be sought if feasible and written records adequate to document competition shall be maintained to account for the funds so expended and to facilitate an audit of small purchases made. (as added by Ord. #2006-21, Nov. 2006)

6-109. Purchases based on informal bids. All contracts for the lease or purchase of personal property involving the estimated expenditure of four thousand dollars (\$4,000) or more of public money, but less than ten thousand dollars (\$10,000) shall be made without public advertisement, but only after informal bids have been secured. All such contracts shall be in writing and shall be awarded to the lowest responsible bidder after at least three (3) competitive bids are received whenever possible. The quality and performance of the personal property offered by each bidder and the time specified for delivery may be considered in determining the lowest bid. The city manager shall keep a record of all such bids submitted and the record shall be available for public inspection after a contract is awarded. (as added by Ord. #2006-21, Nov. 2006)

6-110. Purchases or leases based on formal bids. Except as otherwise provided in this chapter a contract for lease or purchase of personal property involving the estimated expenditure of ten thousand dollars (\$10,000) or more of public money shall not be awarded unless the provisions of this section are followed.

(1) Proposals shall be invited by advertisement in a newspaper having general circulation in the city. The advertisement shall state the time and place where specifications may be obtained and the time and place for submitting and opening of bids. At least ten (10) full business days must pass between the day the advertisement appears and the day of the bid opening. The advertisement shall state that the city reserves the right to reject any or all of the bids. The city manager shall strive to procure at least three (3) competitive bids whenever

possible and shall, if possible, personally contact known vendors to solicit their interest in the bidding.

(2) The city manager may require that bid deposits be submitted with each bid. If bid deposits are required they shall be in amount equal to five percent (5%) of the amount of the bid and may be submitted in the form of cash, cashier's or certified check, bid bond, or any other form of security deemed sufficient by the city attorney. The bid deposit requirement, including the form in which bonds or other forms of bid security may be submitted, shall be included in the specifications.

(3) Bids shall be sealed. If at least three (3) bids are not received bids may be returned to the bidders prior to opening and, at the city's option, the bid procedure may be repeated.

(4) All bids shall be opened in public. The city manager shall make a record of the bids received. The record of the bids received shall be subject to public inspection after the bid opening.

(5) The city manager may require a successful bidder to furnish a performance bond to secure the faithful performance of all the terms of the contract. The performance bond shall be in a form approved by the city attorney. The board may reject the bond of any bidder if they find it to be unacceptable.

(6) All contracts to which this section applies shall be in writing and shall be approved by the board. The board may reject any and all such bids. (as added by Ord. #2006-21, Nov. 2006)

6-111. Exceptions. (1) The provisions of the chapter do not apply to the lease or purchase of personal property when:

(a) The personal property required is available from only one (1) source of supply or when standardization or compatibility is the overriding consideration; or

(b) The lease or purchase is pursuant to a contract with (a) the United States or the State of Tennessee or (b) any other government unit or agency thereof; or

(c) A special emergency exists involving the health and safety of the people or their property.

(2) The city manager shall submit to the board a written report concerning any lease or purchase made pursuant to this section. The city manager shall keep a record of all leases or purchases made pursuant to this section and such records shall be subject to public inspection. (as added by Ord. #2006-21, Nov. 2006)

6-112. Waiver based on other government purchases. When the city manager determines that it is in the best interest of the city to do so the requirements of the chapter may be waived for the lease or purchase of personal property from any person or entity which has within the previous twelve (12) months completed a public, formal bid process substantially similar to that

prescribed in the chapter and has contracted to furnish the same type of personal property to:

- (1) The United States or any federal agency; or
- (2) The State of Tennessee or any agency or political subdivision thereof; and
- (3) If the person or entity is willing to furnish the personal property at the same or more favorable price, terms, and conditions as those provided under the contract with the other governmental unit or agency.
- (4) Any lease or purchase made under this section shall be approved by the board. (as added by Ord. #2006-21, Nov. 2006)

6-113. Personal property declared surplus. When personal property of the city is no longer necessary or useful to the city, the city manager or the board may declare such personal property to be surplus and dispose of the same in the manner prescribed in this chapter. (as added by Ord. #2006-21, Nov. 2006)

6-114. Personal property valued at less the five thousand dollars (\$5,000). Disposal of surplus personal property valued at less than five thousand dollars (\$5,000) shall be designed to obtain fair market value for the property disposed of and to accomplish the disposal in an efficient and economical manner. Such disposition may be by private sale or exchange, or by auction, posting on internet website, or by using the personal property as trade-in, credit, or part payment on the purchase of other personal property, or by any other manner of disposition that meets the purpose and intent of this section. The city manager shall maintain a record that describes generally the personal property disposed of, to whom the personal property was conveyed, and the consideration received for the personal property. The city manager shall make periodic reports to the board concerning dispositions of personal property made pursuant to this section (as added by Ord. #2006-21, Nov. 2006)

6-115. Personal property valued at five thousand dollars (\$5,000) or more. The city manager shall dispose of surplus property valued at five thousand dollars (\$5,000) or more by any of the following methods:

(1) Advertisement for sealed bids. The procedure specified in § 6-110 of this chapter for the lease or purchase of personal property by sealed bids shall be used except that the sale be made to the highest bidder.

(2) Public auction. A notice of a public auction shall be published in a newspaper having general circulation in the city at least ten (10) business days prior to the date of the auction. The notice shall identify the personal property to be sold and set out the date, time, place, and terms of the sale.

(3) Exchange. The city manager may exchange surplus personal property belonging to the city for other personal property by private negotiation if the city receives full and fair consideration in exchange for its surplus personal property. An exchange under this subsection requires prior approval by the board.

(4) Other. The board may authorize the disposition of personal property by any other lawful means when the unusual character of the personal property to be disposed of or unusual circumstances affecting the disposition of the personal property appears to be in the city's best interest to do so. (as added by Ord. #2006-21, Nov. 2006)

CHAPTER 7

GOVERNMENT AUDITING STANDARDS BOARD (GASB)

SECTION

5-701. Standards.

5-701. Standards. (1) When an expense is incurred for purposes for which both restricted and unrestricted funds of the municipality are available in accordance with GASB 54, the use and application of the restricted fund balance shall be utilized prior to utilization of the unrestricted fund balance.

(2) Whenever there are committed and assigned components of an unrestricted fund balance, in accordance with GASB 54, the committed component amounts shall be utilized first followed by utilization of assigned amounts whenever the expenditure incurred is for a purpose for which amounts in those fund balances are so classified as an unrestricted fund balance.

(3) Pursuant to GASB 54, in all municipal funds other than the designated general fund, interest income, if any, will be utilized first followed by use of restricted, committed and assigned revenues when the expense is incurred for purposes for which both restricted and unrestricted funds are available.

(4) Pursuant to GASB 54, transfers to other funds will be considered committed revenues in the fund to which transferred.

(5) Pursuant to GASB 54 during its initial implementation year all beginning fund balances for all municipal funds, except the general fund, will be classified as restricted and the beginning fund balance in the general fund will be classified as unassigned. (as added by Ord. #2011-20, June 2011)

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST²

SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Selection and training standards for police officers.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1984 Code, § 1-501)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1984 Code, § 1-502)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on

¹See Ords. #1996-10 (May 1996), 2001-17 (Sept. 2001), 2001-19 (Oct. 2001), 2003-27 (Aug. 2003), and 2003-32 (Oct. 2003) of record in the recorder's office for ordinances entering into a mutual aid agreement regarding fire, police, public works service, and emergencies and natural disasters.

²Municipal code reference

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

duty unless otherwise expressly directed by the chief for a special assignment. (1984 Code, § 1-503)

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

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1984 Code, § 1-504)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1984 Code, § 1-505)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1984 Code, § 1-506)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1984 Code, § 1-507)

6-108. Selection and training standards for police officers. The following selection and training standards shall apply to any person employed as a police officer of the City of Waverly, Tennessee:

(1) Minimum selection standards. Any person employed as a police officer shall:

(a) be at least eighteen (18) years of age; and

(b) be a citizen of the United States; and

(c) be a high school graduate or possess equivalency; and

(d) not have been convicted of a felony or of a misdemeanor involving "moral turpitude" as the term is defined by the law of the State of Tennessee; and

(e) not have been released or discharged under any other than honorable conditions from any of the armed forces of the United States; and

(f) have his or her fingerprints on file with the Tennessee Bureau of Investigation; and

(g) have passed a physical examination by a licensed physician who shall certify that the person is physically able and qualified to perform the duties of a law enforcement officer; and

(h) have a good moral character as determined by a thorough investigation conducted by the chief of police of the City of Waverly and concurred in by the mayor of the City of Waverly; and

(i) be free of all apparent mental disorders as described in the Diagnostic and Statistical Manual of Mental Disorders, 3rd Edition, (DSM-11) of the American Psychiatric Association and who has been certified as meeting these criteria by a qualified professional in the psychiatric or psychological fields.

(2) Filing of applications and reviews. Any person desiring employment as a policeman of the City of Waverly shall file with the chief of police a written application in a form prescribed by the chief of police. Such written application shall be reviewed by the chief of police and the city manager of the City of Waverly who shall make recommendation to the mayor of the City of Waverly as to the advisability of the employment of such applicant as a policeman of the City of Waverly. In addition thereto the chief of police shall cause a determination to be made concerning the qualifications of such applicant according to the qualifications as established in this chapter and shall certify upon the application to the mayor of the City of Waverly that the applicant meets such qualifications. If the applicant shall not be so certified by the chief of police the reasons for the non-certification shall be stated by him for review by the mayor.

(3) Adoption of minimum standards. In addition to those qualifications required of a person before being employed as a police officer of the City of Waverly as provided in § 6-108(1) above such person shall also meet the minimum standards as may be duly adopted from time to time by the Peace Officer Standards and Training Commission pursuant to Tennessee Code Annotated, § 38-8-101, et seq. and which standards when so duly adopted shall become the minimum standards of the City of Waverly, Tennessee and are adopted herein by reference. A certificate duly issued by the Peace Officer Standards and Training Commission certifying that the person is in compliance with such standards shall be required prior to the employment of any person as a police officer of the City of Waverly.

(4) Requirement for recruit training. Subject to the availability of funds therefor all police officers of the City of Waverly, Tennessee employed by the City of Waverly, who shall not have previously undergone training as a recruit in the area of law enforcement and who shall not have available a certification of the satisfactory completion of an approved recruit training

program meeting the standards as adopted by the Peace Officer Standards and Training Commission, shall within two (2) years from the date of their employment successfully attend and complete a recruit training program in law enforcement meeting the standards as from time to time adopted by the Peace Officer Standards and Training Commission.

(5) Annual in-service training requirement. Subject to the availability of funds therefor all police officers of the City of Waverly shall within each calendar year attend and successfully complete annual in-service training sessions appropriate for the rank and responsibility of such police officer according to and pursuant to the minimum standards therefor as from time to time established by the Peace Officer Standards and Training Commission. (1984 Code, § 1-508)

CHAPTER 2

WORKHOUSE¹

SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the city workhouse, subject to such contractual arrangement as may be worked out with the county. (1984 Code, § 1-701)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1984 Code, § 1-702)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him.² (1984 Code, § 1-703)

¹Charter reference
Workhouse: § 24.

²State law reference
Tennessee Code Annotated, § 40-24-104.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. [REPEALED.]
4. FIRE DEPARTMENT.
5. FIRE SERVICE OUTSIDE CITY LIMITS.
6. RURAL SUBSCRIPTION FIRE FIGHTING SERVICE.
7. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire district designated.

7-101. Fire district designated. The corporate fire district shall be as follows: any and all areas within the corporate limits designated on the city's current zoning map as CA. (1984 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

See Ords. #1996-10 (May 1996), 2001-17 (Sept. 2001), 2001-19 (Oct. 2001), 2003-27 (Aug. 2003), and 2003-32 (Oct. 2003) of record in the recorder's office for ordinances entering into a mutual aid agreement regarding fire, police, public works service, and emergencies and natural disasters.

CHAPTER 2

FIRE CODE¹

SECTION

7-201. Fire code adopted.

7-202. Modifications.

7-203. Available in recorder's office.

7-204. Violations.

7-205. [Deleted.]

7-201. Fire code adopted. The 2006 International Fire Code² ("ICC Fire Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (1984 Code, § 7-201, as amended by Ord. #1991-17, Dec. 1991, modified; and further amended by Ord. #1997-8, § 1(j), July 1997, as replaced by Ord. #2008-7, April 2008)

7-202. Modifications. Whenever in the ICC Fire Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Fire Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (Ord. #1991-17, Dec. 1991, as replaced by Ord. #2008-7, April 2008)

7-203. Available in recorder's office. One (1) copy of the ICC Fire Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (Ord. #1991-17, Dec. 1991, as replaced by Ord. #2008-7, April 2008)

7-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision the ICC Fire Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (1984 Code, § 7-204, as replaced by Ord. #2008-7, April 2008)

¹Municipal code reference

Building, utility and housing codes: title 12.

²Copies of this code are available form the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

Change 9, August 11, 2008

7-3

7-205. [Deleted.] (Ord. #1991-17, Dec. 1991, as amended by Ord. #1997-8, § 1(k), July 1997, as deleted by Ord. #2008-7, April 2008)

CHAPTER 3

(as repealed by Ord. #2008-07, April 2008)

CHAPTER 4

FIRE DEPARTMENT¹

SECTION

- 7-401. Establishment, equipment and membership.
- 7-402. Objectives.
- 7-403. Organization, rules and regulations.
- 7-404. Records and reports.
- 7-405. Personnel investigations relative to firemen and/or firefighters.
- 7-406. Tenure and compensation of members.
- 7-407. Rank and authority.
- 7-408. Chief responsible for training.
- 7-409. Chief to be assistant to state officer.
- 7-410. Mayor may delegate to city manager supervisory duties.

7-401. Establishment, equipment and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment and supplies shall be purchased by or through the office of the city manager of the City of Waverly and shall be and remain the property of the city. The fire department shall be composed of a fire chief appointed by the board of mayor and aldermen and such number of physically fit subordinate officers and firemen as the chief shall appoint subject to the approval, confirmation and commissioning thereof by the mayor. (1984 Code, § 7-301)

7-402. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting; and
- (2) To prevent the loss of life and property because of fires; and
- (3) To confine fires to their places of origin; and
- (4) To extinguish uncontrolled fires; and
- (5) To prevent loss of life from asphyxiation or drowning. (1984 Code, § 7-302)

7-403. Organization, rules and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, make promotions and demotions therein, and otherwise shall formulate, adopt and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, all subject to approval of the mayor. (1984 Code, § 7-303)

¹Municipal code reference

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

7-404. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel and work of the department. All such records shall be subject to the inspection at any time by the mayor, any alderman of the city, the city manager, or such other person or persons as the mayor may from time to time designate. The chief shall submit a written report on all activities of the department to the mayor once each month and at the end of each year a detailed annual report shall be made to the entire board of mayor and aldermen. (1984 Code, § 7-304)

7-405. Personnel investigations relative to firemen and/or firefighters. In connection with the membership, employment, and/or hiring or association of a person or persons to be officers and/or firemen of the City of Waverly, Tennessee, before such persons shall be so employed, hired, or otherwise attain membership in the fire department of the City of Waverly, Tennessee, the following shall be accomplished:

(1) Each applicant to the city fire department shall furnish a classifiable set of fingerprints to the city police department.

(2) The chief of police, and members of the city police department acting at his direction, are authorized to conduct a field investigation and directed to conduct criminal records checks on each applicant for employment by the city fire department.

(3) The chief of police, or a member of the police department acting at his direction, shall prepare a factual summary of the background investigation and criminal records check of each firefighter applicant, and transmit such summary to the fire chief for the purpose of determining the fitness of an applicant. The summary may contain recommendations to the fire chief concerning the suitability for employment of a firefighter applicant.

(4) Background investigations and records checks include records of all arrests and disposition as an adult. Records of arrests and disposition while an applicant was considered a juvenile, shall be transmitted only when authorized by court order, court rule, court decision, federal regulation or state statute, authorizing such dissemination.

(5) Criminal history records and information shall include arrest and disposition data on file in the National Crime Information Center, the Federal Bureau of Investigation, the Department of Defense, and all other federal law enforcement agencies, and the Tennessee Bureau of Criminal Identification, and all other state and local law enforcement agencies.

(6) Any applicant to the city fire department who is denied employment, hiring, or membership on the basis of the investigation summary referred to in this section, may inspect that summary for the purpose of clarifying, explaining or denying the accuracy of its contents.

(7) The chief of police and members of the police department shall make no other disseminations to the fire chief regarding the fitness of firefighter applicants, except in the official summary report referred to in this chapter.

(8) Nothing herein shall be construed as to provide that any applicant to the city fire department for hiring, employment, or membership, shall be so hired, employed, or granted membership, in the event that any such criminal records check on such applicant fails to reveal any adverse report or records therefrom, it being the intent herein that the seeking of such information shall be a part of the consideration for such employment, hiring or membership therein. (1984 Code, § 7-305)

7-406. Tenure and compensation of members. (1) The chief shall hold office at the pleasure of the board of mayor and aldermen of the City of Waverly. The chief may be suspended up to thirty (30) days by the mayor, but may be dismissed only by vote of a majority of the entire board of mayor and aldermen. Other officers and firemen of the department shall be subject to suspension or discharge by the chief whenever he deems such action to be necessary for the good of the department but all such suspensions or discharge shall be subject to the approval of the mayor.

(2) All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1984 Code, § 7-306)

7-407. Rank and authority. The chief shall be the highest ranking officer of the department subject to the superior authority of the mayor. In addition, there shall be such assistant fire chiefs and other officers of the department as the chief may from time to time prescribe. Such subordinate officers shall be of rank as may be prescribed by the chief and any such officer shall be subject to the supervision and orders of any officers appointed over him. In addition, there shall be such firemen as herein provided who shall be subject to the lawful orders of the superior officers appointed over them. The appointment or promotion of all assistants and other subordinate officers and firemen within the department shall be subject to the confirmation, approval and commissioning by the mayor. (1984 Code, § 7-307)

7-408. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take fire apparatus out for practice operations as may be from time to time prescribed by rules and regulations therefor as adopted by the chief and subject to the approval of the mayor. (1984 Code, § 7-308)

7-409. Chief to be assistant to state officer. Pursuant to the requirements of Tennessee Code Annotated, § 67-102-108, the chief of the fire department is designated as an assistant to the State Commissioner of Insurance and is subject to all of the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102 and shall be subject to the

directions of the commissioner in the execution of the provisions thereof. However, the chief shall not incur any expense or make any expenditure in connection with such duties except to the extent funded by the State of Tennessee or otherwise provided for in the budget adopted from time to time by the board of mayor and aldermen. (1984 Code, § 7-310)

7-410. Mayor may delegate to city manager supervisory duties. The mayor may, from time to time, and at his discretion, delegate to the city manager of the City of Waverly such of the administrative and executive duties imposed upon the mayor by virtue of this chapter including, but not limited to, approval of all regulations, rules, hirings, dismissals, promotions, and demotions. (1984 Code, § 7-311)

CHAPTER 5

FIRE SERVICE OUTSIDE CITY LIMITS¹

SECTION

7-501. Equipment to be used generally within the corporate limits; exceptions.

7-501. Equipment to be used generally within the corporate limits; exceptions. No equipment of the fire department shall be used for fighting fires outside the corporate limits except as may otherwise be provided in this title. (1984 Code, § 7-309, as amended by Ord. #1987-3, Feb. 1987)

¹See Ords. #1996-8 (April 1996), 2001-17 (Sept. 2001), 2001-19 (Oct. 2001), 2003-27 (Aug. 2003), and 2003-32 (Oct. 2003) of record in the recorder's office for ordinances authorizing and entering into a Mutual Aid Agreement relative to fire, police, public works service, and emergencies and natural disasters.

CHAPTER 6

RURAL SUBSCRIPTION FIRE FIGHTING SERVICE

SECTION

- 7-601. Established.
- 7-602. Primary responsibility.
- 7-603. Service is non-obligatory.
- 7-604. Subscribing to service.
- 7-605. Subscription fee.
- 7-606. Service call fee.
- 7-607. Forfeiture of service.
- 7-608. Fees not refundable or transferable.
- 7-609. Availability.
- 7-610. Fees collected shall be deposited to the general fund.
- 7-611. Authorization to increase fees.

7-601. Established. There is established a rural subscription fire fighting service ("Subscription Service") to be rendered by the Fire Department of the City of Waverly, utilizing the personnel and apparatus thereof, to the property situated outside the corporate limits of the city, but within an area where the maximum limits of the same are six and one-half (6 1/2) miles from any established fire station of the city as measured along each hard surfaced state or county road leading from the corporate limits of the city or along any such type road connecting with any such road leading from the city (the "Rural Fire Service Area"). (Ord. #1987-3, Feb. 1987, as amended by Ord. #1988-5, Feb. 1988)

7-602. Primary responsibility. The primary responsibility of the Waverly Fire Department is for the protection of the citizens and the property situated within the corporate limits of the city and, therefore, neither the personnel nor the apparatus and equipment of the city shall be dispatched to the rural fire service area when in the opinion of the fire chief there is not then sufficient personnel, apparatus and equipment available due to then existing commitments within the city for on-going fire fighting and/or for then existing requirements for standby protection of the citizens and property within the corporate limits. Under such conditions fire fighting services shall not be provided within the rural fire service area notwithstanding that a fire may be then occurring or threatened to occur within the rural fire service area and notwithstanding that any person or property owner shall have paid the fees, have then in force insurance coverage or posted the guaranty as hereinafter provided. (Ord. #1987-3, Feb. 1987)

7-603. Service is non-obligatory. Subscription service is a non-obligatory service of the city available to the subscribing residents and property owners within the rural fire service area that is offered and rendered with the understanding of the primary responsibility of the Waverly Fire Department. Accordingly, any subscriber of subscription service shall acknowledge in writing the priority of such primary responsibility and notwithstanding the payment of fees, filing of an insurance policy or deposit of guaranty, the providing of fire fighting or protection services shall always be subject to such criteria. The city shall not be responsible for any damage or loss incurred by any person or to any property within the rural fire service area due to a failure at anytime to respond with personnel or apparatus to a rural fire call because of lack of sufficient or available personnel or apparatus in the opinion of the fire chief. All subscribers by their execution of an application for subscription service and the payment of required fees agree thereby to the terms, provisions and conditions of this chapter. (Ord. #1987-3, Feb. 1987)

7-604. Subscribing to service. Any person, firm, organization or corporation may apply to the City of Waverly and be granted subscription service for an individual tract or parcel of land containing not to exceed one single family dwelling thereon with accessory buildings and improvements or for a single business operation with accessory buildings and improvements. There is no limitation on the number of subscriptions that may be held by any one person, firm, organization or corporation. The city may refuse to grant subscription to any person. (Ord. #1987-3, Feb. 1987)

7-605. Subscription fee. A subscriber shall pay an annual subscription fee of \$75 for any tract or parcel where the principal structure thereon is less than 3,000 square feet and an annual subscription fee of \$150 for any tract or parcel where the principal structure thereon is 3,000 square feet or greater. The fee shall be for all or any portion of the city fiscal year beginning July 1 and ending June 30 during which subscription service shall be in effect. This fee shall be payable on or before July 31 or upon initial application if subsequent thereto, but prior to July 1 of the succeeding fiscal year. (Ord. #1987-3, Feb. 1987)

7-606. Service call fee. A subscriber shall pay a service call fee of \$500 for each and every service call made to the property of the subscriber to render fire fighting services. One (1) service call fee in cash shall be at all times paid in advance to the city, or in lieu thereof there shall be filed with the city a guaranty or insurance policy from an approved fire insurance company or an agent thereof guaranteeing or insuring that such fire insurance company or agent shall pay to the city immediately upon invoice the sum of \$500 for any service call to the property of the subscriber. Such guaranty or insurance policy shall not be revocable or cancellable except upon sixty (60) days prior written

notice to the city. Upon revocation or cancellation of such guaranty or insurance policy without an immediate replacement thereof or by the depositing of the service call fee as herein provided, the city shall no longer render fire service or answer fire calls for such person, firm, organization or corporation at such location and the subscription therefor shall be terminated thereby. (Ord. #1987-3, Feb. 1987)

7-607. Forfeiture of service. Failure of any person, firm, organization or corporation to pay the annual subscription fee when due or to keep in force an insurance policy covering or a guaranty or payment of the service call fee or to have paid in advance the sum of \$500 for each service call fee as herein provided or failure of any subscriber, insurer or guarantor to pay a service call fee upon demand by the city shall immediately cause forfeiture of subscription service and of any fire services as herein provided. (Ord. #1987-3, Feb. 1987)

7-608. Fees not refundable or transferable. All annual subscription and service call fees paid hereunder on any single location shall not be refundable to or transferable by any person, firm, organization or corporation upon sale or disposition of the covered property or the acquisition of another property within the rural fire service area. (Ord. #1987-3, Feb. 1987)

7-609. Availability. Subscription service shall not be available within the rural fire service area based upon any oral request, application or guaranty made by any person, firm, organization or corporation, whether before or after a fire shall be in progress. (Ord. #1987-3, Feb. 1987)

7-610. Fees collected shall be deposited to the general fund. All funds received by the city for subscription service is earmarked for expenditure in the fire fighting service of the city and they shall be promptly deposited to the general fund of the city subject to appropriation by the board of mayor and aldermen. Records shall be maintained and administration of the subscription service shall be under the supervision of the fire chief. The city manager may adopt rules, regulations, and forms therefor and which in the opinion of the city attorney are not inconsistent with any provision hereof. (Ord. #1987-3, Feb. 1987)

7-611. Authorization to increase fees. At any time the board of mayor and aldermen may increase the amount of any fee required to be paid hereunder for subscription service and upon notice thereof any person, firm, organization or corporation desiring to continue his, her or its service shall deposit additional fees or cause a guaranty thereof or insurance coverage therefor to be filed with the city within thirty (30) days from the effective date thereof or otherwise continuation of service shall terminate. (Ord. #1987-3, Feb. 1987)

CHAPTER 7

FIREWORKS

SECTION

7-701. Definition.

7-702. Manufacture, sale and discharge of fireworks.

7-703. Bond for fireworks display required.

7-704. Disposal of unfired fireworks.

7-705. Exceptions.

7-706. Seizure of fireworks.

7-701. Definition. "Fireworks" shall mean and include any combustible or explosive composition or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times. (1984 Code, § 7-401)

7-702. Manufacture, sale and discharge of fireworks. (1) The manufacture of fireworks is prohibited within the city.

(2) Except as hereinafter provided it shall be unlawful for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided that the recorder shall have power to grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations. Every such display shall be handled by a competent operator approved by the chief of the fire department of the city, and shall be of such a character, and be so located, discharged or fired as in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or endanger any person.

(3) Applications for permits shall be made in writing in advance of the date of the display. After such privilege shall have been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. (1984 Code, § 7-402)

7-703. Bond for fireworks display required. The permittee shall furnish a bond in an amount deemed adequate by the recorder for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agents, employees or subcontractors. (1984 Code, § 7-403)

7-704. Disposal of unfired fireworks. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining. (1984 Code, § 7-404)

7-705. Exceptions. Nothing in this chapter shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped directly out of the city; or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. (1984 Code, § 7-405)

7-706. Seizure of fireworks. Policemen and firemen shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this chapter. (1984 Code, § 7-406)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Regulations applicable.
- 8-103. Beer regulations unaffected.
- 8-104. State laws to be complied with.
- 8-105. Application fees to be paid by applicant; penalty.
- 8-106. Failure of a licensee to pay inspection fees, etc.
- 8-107. Bonds of licensees.
- 8-108. Effect of conviction of felony involving moral turpitude or of violating laws relating to alcoholic beverages.
- 8-109. New certificate after revocation.
- 8-110. Revocation or refusal of retailer to permit examination of books, records, etc.
- 8-111. Location restrictions.
- 8-112. Restriction on number of stores.
- 8-113. Content of application for certificate.
- 8-114. Certificate execution.
- 8-115. Transfer of license or store.
- 8-116. Inspection fees.
- 8-117. Sales to persons intoxicated, etc.
- 8-118. Public drinking and display prohibited.
- 8-119. Violations.

8-101. Definitions. Whenever used in this chapter, unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverages" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine,

¹State law reference

Tennessee Code Annotated, title 57.

beer or wine, where the latter two (2) contain an alcoholic content of five (5) percent by weight or less.

(2) "Retail sale" or "sale at retail" means a sale of an alcoholic beverage to a consumer or to any person for any purpose other than for resale by a retailer.

(3) "Retailer" means any person who sells at retail any beverages covered by this chapter.

(4) "Person" means any natural person as well as any corporation, partnership, firm or association.

(5) "Board" refers to the board of mayor and aldermen of the City of Waverly, Tennessee.

(6) "City" means the City of Waverly, Tennessee.

(7) "Domiciled" means a person who is presently and who has had continuous actual physical residence with an established permanent residence within the geographical area of a circle measured by a five mile radius from the front door of the city hall of the city. If a corporation, partnership, firm or association, then it shall mean that each and every stockholder, officer, director, member, partner or beneficiary shall have a residence within such area.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one per cent (21%) by volume.

(9) "Applicant" means any person who shall file an application or request, in whatever form, with the city for a certificate.

(10) "Application fee" shall mean the fee, payable in current funds, to the city by every person applying for a certificate, to help defray the cost to the city in the investigation of the applicant to determine his or her or its qualification or entitlement to the issuance of a certificate.

(11) "Certificate" means any certificate issued to any applicant pursuant to this chapter and as a pre-requisite to the issuance of a license under Tennessee Code Annotated, title 57, by the State of Tennessee Alcoholic Beverage Commission.

(12) "Licensee" means any person issued a license or permit to be a retailer within the city by the State of Tennessee Alcoholic Beverage Commission.

(13) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural. (Ord. #1984-19, Jan. 1985, as amended by Ord. #1987-2, Jan. 1987)

8-102. Regulations applicable. (1) Pursuant to Tennessee Code Annotated, title 57, and a referendum held pursuant thereto in the city on the 6th day of November 1984 this chapter is enacted.

(2) It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the city except in accordance with the provisions of Tennessee Code Annotated, title 57, the rules and regulations promulgated thereunder, and as provided in this chapter. (Ord. #1984-19, Jan. 1985)

8-103. Beer regulations unaffected. No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, or tax upon beer or other liquids with an alcoholic content of five (5) per cent or less. (Ord. #1984-19, Jan. 1985)

8-104. State laws to be complied with. No person shall act as a retailer unless all the necessary state licenses and permits have been obtained. (Ord. #1984-19, Jan. 1985)

8-105. Application fees to be paid by applicant; penalty. The application fee shall be payable by the person making application and no other person shall pay for any such fees. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the denial and/or revocation of any certificate issued pursuant to such application and forfeiture of the fee which was paid by another, and also the revocation of the certificate, if any, of the person so paying the application fee of another. (Ord. #1984-19, Jan. 1985)

8-106. Failure of a licensee to pay inspection fees, etc. Whenever any licensee fails to account for or pay over to the city any tax, fine or inspection fee, or defaults in any of the conditions of his bond, the city manager shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such defaults in payments and for the revocation of any certificate issued to such person under this chapter. (Ord. #1984-19, Jan. 1985)

8-107. Bonds of licensees. A licensee shall execute with a surety company duly authorized and qualified to do business in the State of Tennessee a bond to the city in the amount of two thousand five hundred dollars (\$2,500) which shall be conditioned that the principal thereof shall pay any fine, tax, or fee which may be owing or assessed against the principal. (Ord. #1984-19, Jan. 1985)

8-108. Effect of conviction of felony involving moral turpitude or of violating laws relating to alcoholic beverages. (1) No certificate shall be issued to any applicant who, within ten (10) years preceding application for such certificate shall have been convicted of a felony involving moral turpitude or shall have been convicted of any offense under the laws of the State of

Tennessee, or any other state, or the United States, prohibiting or regulating the sale, possession, transportation, storing or otherwise handling of alcoholic beverages, or who has during said period been engaged in business, alone or with others, in violation of any such laws or the rules and regulations promulgated pursuant thereto. In case of any conviction occurring after a certificate has been issued hereunder, the certificate shall immediately be revoked, if such convict shall be an individual, and, if not, the partnership, corporation or association with which he is connected shall immediately discharge him, and failure to do so shall result in the immediate revocation of its certificate.

(2) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who within ten (10) years prior to the date of his employment shall have been convicted of any such violations as provided in subsection (1) of this section and in case an employee should be so convicted, he shall be immediately discharged. Failure of a retailer to immediately discharge such employee shall be cause for revocation of the certificate of such retailer. (Ord. #1984-19, Jan. 1985)

8-109. New certificate after revocation. Where a certificate is revoked, no new certificate shall be issued on the same premises of such retailer before the expiration of one (1) year from the date said revocation becomes final and effective. (Ord. #1984-19, Jan. 1985)

8-110. Revocation or refusal of retailer to permit examination of books, records, etc. The city is authorized to examine the books, papers, and records of any retailer or applicant for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of any certificate issued to such retailer or the refusal to issue a certificate of any applicant. (Ord. #1984-19, Jan. 1985)

8-111. Location restrictions. (1) It shall be unlawful for any person to operate or maintain a retail store for the retail sale of alcoholic beverages in the city unless the physical location thereof shall be in Zones CA, CC, CD or IM, as appears on the official zoning map of the city on the date of his application. Further, in no event will such retail sale be allowed within those zones when in the opinion of the board, expressed by a majority thereof, the carrying on of such business at the premises covered by the application of an applicant would be in too close proximity to any dwelling, church, school, or public institution, or otherwise inimical to the public interest. A licensee shall not be engaged as a retailer except at the premises recited in his application.

(2) Any change of location of the business location of a retailer shall be cause for immediate revocation of the certificate issued by the board unless

the new location is approved in writing prior thereto by the board. (Ord. #1984-19, Jan. 1985)

8-112. Restriction on number of stores. There shall be no more than two (2) stores or locations for the retail sale of alcoholic beverages within the city and the board shall issue no more than two (2) certificates at one time. Provided, however, at such time as the population of the city shall increase by at least 3000 over the population of the city determined at the 1980 Census, then an additional retail store or location shall be allowed and an additional certificate issued to an applicant. (Ord. #1984-19, Jan. 1985)

8-113. Content of application for certificate. Each applicant for a certificate shall file an application for same on the form provided by the city. A copy of each application form, questionnaire, partnership agreement or any other form or document required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with an application by the applicant for a state retailer liquor license shall be attached to the city application form and shall become a permanent part thereof as if fully and completely copied verbatim therein. The city attorney shall review the applications and notify the applicants and the board of any errors or insufficiencies noted on the applications. The application form for a certificate shall be signed and verified under oath by all owners, partners, officers, stockholders, directors, members or otherwise and shall reflect the name of all persons having any financial interest, directly or indirectly, in and to the proposed liquor store. (Ord. #1984-19, Jan. 1985)

8-114. Certificate execution. A certificate shall be signed by a majority of the board while in session and conditioned upon the applicant fulfilling the following requirements:

(1) The applicant shall be of good moral character and be personally known to a majority of the board.

(2) If a corporation, partnership, association, or firm, the executive officers and those in control and all owners, partners, stockholders, directors and members shall be of good moral character and personally known to a majority of the board.

(3) The financial condition of the applicant, and in the case of a corporation, partnership, association, or firm, also its executive officers, partners, directors, stockholders and members, is such as in the opinion of a majority of the board shall be solvent so as to likely cause the proposed liquor store to be operated in a commercially reasonable and sound manner.

(4) The applicant has not violated any of the provisions of this chapter and is otherwise entitled to the issuance of a license by the State of Tennessee Alcoholic Beverage Commission.

(5) The disclosure of the location or site that the applicant proposes to do business as a retailer and the owner of such premises and mortgage holder, if any. If the premises are leased a copy of the lease agreement shall be attached. If the premises are owned a copy of the title deed shall be attached. If the premises are mortgaged a copy of the mortgage instrument shall be attached.

(6) The disclosure of the financial interest of any person in the application or in the operation of the retailer upon licensing by the State of Tennessee.

(7) That no applicant shall, either individually or as a member of a partnership, association, firm or as a stockholder, officer or director of a corporation, be on more than one application.

(8) The applicant, if an individual, and each and every partner, member, director, stockholder, or executive officer, if a firm, partnership, corporation, or association, shall have been domiciled for not less than one (1) year next preceding the date of the application.

(9) Each individual applicant or individuals on an application at the time of filing of an application for a certificate shall pay a non-refundable application fee of one hundred dollars (\$100) to partially defray the cost of investigation of each such applicant or individual and processing of said application. (Ord. #1984-19, Jan. 1985)

8-115. Transfer of license or store. No sale, transfer or gift of any interest of any nature, either financial or otherwise, in any store or license of any licensee shall be made without first obtaining the written approval of the board and the issuance of a certificate to a proposed owner, stockholder, member, partner, director or otherwise. (Ord. #1984-19, Jan. 1985)

8-116. Inspection fees. (1) Definitions. For the purposes of this section, the material words and phrases shall have the meanings respectively ascribed to them under Tennessee Code Annotated, § 57-3-101, and by § 8-101 hereof.

(2) Amount. For the purposes of providing a means of regulating, inspecting, and supervising the liquor business in the city there is levied and imposed upon each retailer an inspection fee at the rate of 8% of the wholesale price of the alcoholic beverages supplied by any wholesaler to such retailer. The fee shall be measured by the wholesale price of the alcoholic beverage sold by all such wholesalers and paid by all such retailers and shall be 8% of such wholesale price.

(3) Collection by wholesaler from retailer. The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(4) Fees to be held until paid to city. Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the city as hereinafter provided.

(5) Monthly report and payment. Each wholesaler making sales to retailers located within the city shall furnish to the city a report monthly and which report shall contain the following:

(a) The name and address of the retailer;

(b) The gross wholesale price of the alcoholic beverages sold to such retailer;

(c) The amount of tax due under this section.

(6) Due date of wholesalers' reports and payment. The monthly report shall be furnished to the city manager not later than the twentieth (20th) day of the month following which the sales were made and the inspection fees collected by the wholesaler from the retailers shall be paid to the city at the time the monthly report is made.

(7) Wholesalers' fee for collection of inspection fees. Wholesalers collecting and remitting the inspection fee to the city shall be entitled to reimbursement for this collection service in a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted. Such reimbursement shall be deducted and shown on the monthly report to the city.

(8) Failure to report and remit fees. Each wholesaler who fails to collect and/or remit the inspection fees imposed hereunder shall be liable for a penalty of ten percent (10%) of the fees due the city.

(9) Audit of wholesalers' records. The city may audit the records of all wholesalers subject to the provisions of this section in order to determine the accuracy of said monthly reports.

(10) Disposition of fees. The city manager shall turn over to the city recorder any and all monies collected pursuant to this section and the recorder shall deposit said monies in the general fund of the city. (Ord. #1984-19, Jan. 1985)

8-117. Sales to persons intoxicated, etc. No retailer shall sell any alcoholic beverages to any person who is drunk, nor to any person accompanied by a person who is drunk. (Ord. #1984-19, Jan. 1985)

8-118. Public drinking and display prohibited. It shall be unlawful for any person to drink any alcoholic beverages or physically and openly possess, display, exhibit, or show an unsealed bottle containing any alcoholic beverage in the parking area of any drive-in restaurant, shopping center, or parking area of any business premises, or on any public street or sidewalk, or in any public park, playground, theater, stadium, school, or schoolground. (Ord. #1984-19, Jan. 1985)

8-119. Violations. Any person who shall violate any provision of this chapter shall be punishable by a fine of \$50 and in the case of a retailer shall, in the discretion of the board, be cause for revocation of the certificate issued to such retailer. (Ord. #1984-19, Jan. 1985)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer business lawful but subject to regulation.
- 8-202. Beer permit board created.
- 8-203. Beer permit required.
- 8-204. Restrictions upon granting of permits.
- 8-205. Application for permit; requirements as to applicants; regulations to be followed.
- 8-206. Revocation or suspension of permit; hearing; action of beer permit board final.
- 8-207. Issuance of permits to hotels, clubs, etc.
- 8-208. License fee.
- 8-209. Display of permit.
- 8-210. Permits not transferable.
- 8-211. Sales to certain persons prohibited; proper sanitary facilities required.
- 8-212. Retail premises to be on street level and have glass front.
- 8-213. Retail premises: curtains, blinds, etc., prohibited.
- 8-214. Retail premises: all sales to be on ground floor; exceptions.
- 8-215. Wholesalers, etc.: deliveries to holders of retail beer permits.
- 8-216. Bond required of retailers.
- 8-217. Minors: fraudulent evidence of age, etc., a misdemeanor.
- 8-218. Hours of sale.
- 8-219. Violations.
- 8-220. Employees liable for violations.

8-201. Beer business lawful but subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the law of the State of Tennessee, or any other beverages of like alcoholic content, within the corporate limits of the City of Waverly, subject to all of the regulations, limitations and restrictions hereinafter provided, and subject to the rules and regulations promulgated by authorized public officials. (1984 Code, § 2-201)

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).

8-202. Beer permit board created. There is hereby created a beer permit board which shall consist of the mayor and other members of the board of aldermen who shall hold office for a period coterminous with their respective terms of office. (1984 Code, § 2-202)

8-203. Beer permit required. No person shall engage in the storing, selling, distribution or manufacturing of beer or other beverage of like alcoholic content within the corporate limits of the City of Waverly until he shall receive a permit to do so from the beer permit board of the City of Waverly, which permit shall at all times be subject to all of the limitations and restrictions herein provided. (1984 Code, § 2-203)

8-204. Restrictions upon granting of permits. No beer permit shall be issued to sell beer or any beverage coming within the provisions of this chapter:

(1) In violation of any provisions of the state law; or
(2) In violation of any zoning ordinance of the City of Waverly; or
(3) Except as a pre-applied for and fixed location then available for operation; or

(4) Where such sales will cause congestion of traffic, or interference with schools, churches, or other places of public gathering, or otherwise interfere with the public health, safety and morals, and upon the question of all of which the judgment of the beer permit board, on such matters, shall be final, except as the same is subject to review at law as provided by the laws of the State of Tennessee; or

(5) To any person who shall engage in the sale of such beverages at any place or places other than that for which he shall hold a valid permit; to any person who shall violate any of the terms or conditions as set forth in any permit granted; to any person who shall sell such beverages to minors or who shall permit minors, disorderly, or disruptable persons who shall theretofore have been connected with the violation of liquor laws, to loiter around the place of business; to any person who shall employ minors directly in the sale or distribution of such beverages; to any person who shall allow gambling or gambling devices on or about the premises where such beer shall be sold; to any person who shall allow any liquor with an alcoholic content greater than such weight, volume, or alcoholic content as is allowed for beer by the laws of the State of Tennessee to be consumed on or about the premises; to any person who shall have himself or who shall employ persons in the distribution or sale of such beverages who shall have been convicted for violating such law regulating or prohibiting the sale, manufacture or transportation of intoxicating liquor, or for any crime involving moral turpitude, within the past ten (10) years; or to any person who shall not conduct the business in person, for himself, or if acting as an agent, who shall not disclose the person, firm or corporation, syndicate, association, or joint stock company for whom and only for whom, such person

shall intend to act or to any person who shall violate any of the provisions hereof after any such permit shall have been issued. (1984 Code, § 2-204)

8-205. Application for permit; requirements as to applicants; regulations to be followed. (a) Before any permit is issued by the beer permit board, the applicant therefor shall file with the beer permit board a sworn petition in writing on forms prescribed by and furnished by the board, and shall establish the following:

(1) The location of the premises at which the business shall be conducted.

(2) The owner or owners of such premises.

(3) That no person will be employed in the storage, sale or manufacture of such beverages except those who are citizens of the United States.

(4) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer permit board has issued a permit or permits to such applicant.

(5) That no sale of such beverages will be made except in accordance with the permit granted.

(6) That if the application is for a permit to sell "not for consumption on the premises" that no sale will be made for consumption on the premises and that no consumption will be allowed on the premises thereof.

(7) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business. That no minors will be employed directly in the sale or distribution of such beverages.

(8) That the applicant will not allow any liquor with an alcoholic content greater than such weight, volume or alcoholic content as is allowed for beer by the laws of the State of Tennessee, to be consumed on applicant's premises, except in those instances when at the time of such consumption such applicant holds a license lawfully issued and in effect permitting such consumption by the Alcoholic Beverage Commission of the State of Tennessee or such other licensing agency of the State of Tennessee as may be provided for from time to time by the laws of the State of Tennessee. It being the intent herein that beer permits may be granted to premises which hold liquor by the drink licenses as granted by the State of Tennessee.

(9) That neither the applicant nor any persons employed or to be employed by him in such distribution or sale of such beverage has ever been convicted for violating any law regulating or prohibiting the sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(10) That the applicant will conduct the business in person, for himself, or if he is acting as agent, the applicant shall state the person, firm or

corporation, syndicate, association or joint stock companies for whom and only for whom, the applicant intends to act.

(b) The beer permit board may act only upon a sworn application by an applicant in writing. The application may be heard without the necessity of the personal appearance of the applicant or any supporting witnesses before the board. However, the board in its discretion, may require that the applicant or any representative thereof appear in person before the board upon consideration of the application and establish to the satisfaction of the board that all matters set forth in the application are true and that the applicant is otherwise qualified and the premises for which the application is sought are qualified under the terms of these regulations. Before the beer permit board issues a permit for the sale of beer it shall cause to be published in a newspaper of general circulation within the city a notice of the application to include name of the applicant, the address of the location where such permit is requested, and whether the application is for the sale for on-premises or off-premises consumption. The notice shall give the date, time and place of a public hearing by the board on the application. Such notice shall be published at least once not less than ten (10) days prior to such hearing. Prior to final action on the application such public hearing shall be held for the purpose of receiving the statements of any person on an application. The cost of the publication of all required public notices shall be paid for by the applicant at the time of the filing of the application. (1984 Code, § 2-205, as amended by Ord. #1997-7, July 1997)

8-206. Revocation or suspension of permit; hearing; action of beer permit board final. All permits issued by the beer permit board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

Complaints filed against any permit holder for the purpose of suspending or revoking his permit shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered mail or by a member of the police department of the City of Waverly. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the

hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. (1984 Code, § 2-206)

8-207. Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer permit board to issue a permit for the sale of any beverage coming within the provisions of this chapter, to hotels, clubs, or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit required by this chapter and any ordinance amendatory hereof. (1984 Code, § 2-207)

8-208. License fee. (1) There is hereby imposed upon every applicant for a permit to sell beer in the City of Waverly, Tennessee, an application fee of two hundred fifty dollars (\$250.00) to be paid at the time of the filing of the application with the city, for use in offsetting the expense necessary and attendant to the investigation of any applicant and the application. A separate application fee shall be paid for each premises for which a permit is sought, regardless of whether or not the applicant holds licenses or permits for other premises.

(2) Regardless of whether or not the application is approved or denied, no portion of any application fee collected shall be refunded to the applicant.

(3) All such application fees shall be deposited into and become a part of the General Fund of the city. (1984 Code, § 2-208)¹

8-209. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1984 Code, § 2-209)

8-210. Permits not transferable. Permits issued under the provisions of this chapter are not transferable either as to location or to successor by purchase, or otherwise, of the business for which the permit was issued. In either case, a new permit is required in the manner provided herein. (1984 Code, § 2-210)

8-211. Sales to certain persons prohibited; proper sanitary facilities required. Hereafter it shall be unlawful and it is hereby declared to be a misdemeanor for any person, firm, corporation or association engaged in the

¹See Tennessee Code Annotated, § 57-5-108(c).

business regulated hereunder, to make, or to permit to be made, any sale or distribution of beer to persons who are intoxicated, feeble minded, insane or other wise mentally incapacitated or to fail to provide proper sanitary facilities for the consumers of said beverages. (1984 Code, § 2-211)

8-212. Retail premises to be on street level and have glass front. No license to permit the retail sale or distribution of beverages coming within the provisions of this chapter, shall be issued for the operation of any place except one on street level and with so much of the front enclosed in glass and of such design that the interior can be easily seen from the sidewalk or street in front of such place. Chartered clubs may be exempt from the provisions of this section, at the discretion of the beer permit board. (1984 Code, § 2-212)

8-213. Retail premises: curtains, blinds, etc., prohibited. No curtains, drapes, shades, blinds, screens or other things shall be used in any place where the sale of beverages, coming within the provisions of this chapter, is permitted, that in any way hinders a clear and unobstructed view of the whole interior of such place from any point on the sidewalk or street in front of such place. Chartered clubs may be exempted from the provisions of this section at the discretion of the beer permit board. (1984 Code, § 2-213)

8-214. Retail premises: all sales to be on ground floor; exceptions. In any building or on any premises where the retail sale of beverages coming within the provisions of this chapter is permitted, no alcoholic beverage shall be sold, served, or consumed in any basement room or rooms other than on the ground floor, excepting hotel bedrooms. Chartered clubs may be exempt from the provisions of this section at the discretion of the beer permit board. (1984 Code, § 2-214)

8-215. Wholesalers, etc.: deliveries to holders of retail beer permits. It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any person other than the holders of valid retail beer permits and it shall be the duty of such wholesaler, distributor or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (1984 Code, § 2-215)

8-216. Bond required of retailers. Every person, firm, corporation or association, before being issued any license or permit to sell at retail within the corporate limits of the City of Waverly, Tennessee, any such beverages as permitted to be sold under this chapter, shall make and deliver to the city recorder, along with and at the time of the making of application for the permit as required by § 8-205, a joint and several bond in the penalty of twenty five hundred dollars (\$2,500.00), payable to the City of Waverly, Tennessee, said

bond to be signed by or on behalf of the applicant, and by some solvent surety company authorized to carry on a general surety business within the State of Tennessee or by two solvent personal sureties, any such surety company or personal sureties to be subject to the approval of the beer permit board, and which bond shall be conditioned that the principal thereof will pay any fine which may be assessed against such principal by any court of competent jurisdiction for any violation of the provisions of this chapter or shall pay and satisfy any and all expenses, attorneys' fees, court costs or other costs incurred by the City of Waverly, Tennessee in connection with the enforcement of this chapter brought about as a result of any violation of the provisions of this chapter by such permit holder or licensee and wherein such permit holder or licensee shall have been found to have violated any provision hereof. Such bond shall be in the form as shall be required by and shall be subject to, the prior approval of the city attorney. Any permit holder as a condition for the issuance or continuation of holding of any license or permit granted pursuant to this chapter shall at all times have on file and deposited with the city such bond as herein required and should any surety thereon at any time withdraw as surety therefrom then the permit or license as granted to such licensee or permit holder shall automatically terminate. Such bond as herein required shall by its terms provide that no surety thereon may withdraw suretyship without giving to the City of Waverly at least thirty (30) days prior written notice thereof. (1984 Code, § 2-216)

8-217. Minors: fraudulent evidence of age, etc., a misdemeanor. (1) It shall be unlawful for any minor to purchase or attempt to purchase any beverage regulated hereunder, and it shall be unlawful for any minor to possess any such beverage upon the premises of an "on-premises" permittee.

(2) It shall be unlawful for any minor to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase or otherwise procuring or attempting to procure such beverage.

(3) Any minor who acts in violation of one or more of the provisions of this section shall be deemed guilty of a misdemeanor and if eighteen (18) years of age, or more, shall, upon conviction, be subject to a fine; if seventeen (17) years of age, or less, he shall be taken before the juvenile judge for appropriate disposition. (1984 Code, § 2-217)

8-218. Hours of sale. It shall hereafter be unlawful and it is hereby declared to be a misdemeanor for any person, firm, corporation or association to sell or distribute any of such beverages regulated hereunder, within the corporate limits of the City of Waverly between the hours of 12 midnight and 4:00 A.M. daily or at any time on Sunday. No such beverage shall be consumed or opened for consumption on or about the premises of a permittee, in either bottle, glass, or other container, after 12:15 A.M. (1984 Code, § 2-218)

8-219. Violations. Each day's violation of any provision of this chapter or each sale made in violation of any provision of this chapter shall constitute a separate misdemeanor which shall be punishable by a fine and/or by suspension or revocation of the permit issued hereunder. (1984 Code, § 2-219)

8-220. Employees liable for violations. Any employee of any permittee, either retailer or wholesaler, who violates the provisions of this chapter or any provision of the state beer act while so employed by such permittee shall be guilty of a misdemeanor. (1984 Code, § 2-220)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. GOING OUT OF BUSINESS SALES.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. ADULT-ORIENTED BUSINESSES.

CHAPTER 1

GOING OUT OF BUSINESS SALES

SECTION

- 9-101. Going out of business sales restricted; closing out sale license.
- 9-102. Sale must be bona fide.
- 9-103. Statement, inventory and affidavit.
- 9-104. Record of articles sold.
- 9-105. Cancellation of license.
- 9-106. Trustees in bankruptcy and judicial sales excepted.

9-101. Going out of business sales restricted; closing out sale license. It shall be unlawful for any person to advertise or conduct any sale of goods, wares or merchandise at retail that is represented as a bankrupt, insolvent, assignee's, adjuster's, trustee's, executor's administrator, receivers, manufacturer's, close-out, liquidation, fire or water damage, going out of business, or loss of lease sale or any other sale which, by representation or advertising, is intended to lead the public to believe that the person conducting such sale is selling out the merchandise at a sacrifice price without first obtaining from the city recorder a "Closing-Out Sale License." The fee for such license shall be \$25.00 for each day such sale is conducted. The license fee herein set out shall not be assessed against any bona fide merchant who has engaged in business in the City of

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

Waverly, Tennessee, for at least two years prior to the time of such sale and who has paid his privilege and ad valorem taxes and business licenses during such time, provided such sale is not conducted for more than a period of sixty days in any one year. (1984 Code, § 5-101)

9-102. Sale must be bona fide. It shall be unlawful for any person to conduct a sale as set out in § 9-101 unless such goods, wares or merchandise is a bona fide stock in trade as represented, and the sale is being conducted for the purpose set out in the representation and advertisement. When any person, after advertising such a sale adds to his stock in trade it shall be deemed prima facie evidence that he has violated this section and such sale is not bona fide as represented. (1984 Code, § 5-102)

9-103. Statement, inventory and affidavit. As a condition precedent to the obtaining of the license required by § 9-101, there shall be filed in the office of the city recorder, with the application for the license, a statement showing all parties who have any interest in such sale and an accurate list of the stock of goods, wares and merchandise to be sold at such sale under such license, together with the wholesale price thereof and the prices paid by the seller, which inventory or list shall be signed by the person applying for the license under affidavit that the information there given is personally known by the affiant to be true. (1984 Code, § 5-103)

9-104. Record of articles sold. It shall be unlawful to sell at any sale regulated by this chapter or to list any inventory required by this chapter any goods, wares or merchandise which are not in the stock of the business at the time the affidavit is made as required by § 9-103. It shall be unlawful to make any additions or replacements to such stock during the time of the sale and to fail, neglect or refuse to keep in writing or typewriting a true copy of every article sold, which records shall be filed with the city recorder. (1984 Code, § 5-104)

9-105. Cancellation of license. If, at any time, the city, or any officer or agent thereof, shall find or determine that the seller at any sale regulated by this chapter has violated any of the provisions of this chapter, the license issued to such person shall be cancelled. Notice thereof shall be given to the holder of such license either by mail or in person by the city acting by and through any of its officers or agents. (1984 Code, § 5-105)

9-106. Trustees in bankruptcy and judicial sales excepted. The provisions of this chapter shall not be applicable to Trustees in Bankruptcy, court appointed receivers or any other public officers acting under judicial process, fiat, or order. (1984 Code, § 5-106)

CHATTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Definitions.
- 9-203. Application.
- 9-204. Investigation and issuance.
- 9-205. Bond.
- 9-206. Use of streets.
- 9-207. Exhibition of permit.
- 9-208. Location of premises.
- 9-209. Transfer.
- 9-210. Loud noises and speaking devices.
- 9-211. Duty of police to enforce.
- 9-212. Records.
- 9-213. Revocation of permit.
- 9-214. Reapplication.
- 9-215. Appeal.
- 9-216. Judicial review of board action.
- 9-217. Expiration of permit.

9-201. Permit required. It shall be unlawful for a canvasser, solicitor, peddler, transient merchant, itinerant merchant or itinerant vendor as defined in § 9-202 of this chapter to ply his trade or engage in business within the city without first obtaining a permit therefor in compliance with the provisions of this chapter; provided, however, that yard sales, sales of home grown fruits and vegetables, homemade items, sales made at wholesale to licensed dealers, and sales made by bona fide charitable, religious, patriotic or philanthropic organizations shall be exempt from the provisions of this chapter. (1984 Code, § 5-201)

9-202. Definitions. For the purpose of this chapter a canvasser, solicitor, peddler, transient merchant, itinerant merchant or itinerant vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary, occasional business of selling and delivering goods, wares and merchandise at retail within the city, and who, in furtherance of such purpose hires, leases, uses

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-801.

or occupies any lot, space, building, structure, motor vehicle, tent, railroad box car, room in hotels, motels, lodging houses, apartments, shops, or of any street, alley, or other public place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. Provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed to be subject to the provisions of this chapter. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (1984 Code, § 5-202)

9-203. Application. (1) Applicants for a permit under this chapter, whether a person, firm or corporation, shall file a written sworn application signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation, with the city recorder showing:

(a) The name or names of the person or persons having the management or supervision of applicant's business during the time it is proposed that it will be carried on in the city; the local address of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated; and

(b) Three references with addresses of individuals, firms or corporations having knowledge of the character and business reputation of applicant; and

(c) The place or places in the city where it is proposed to carry on applicant's business; and the length of time during which it is proposed that said business shall be conducted; and

(d) The most recent five (5) places, other than the permanent place of business of the applicant, where applicant has conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted; and

(e) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the city; the invoice value and quality of such goods, wares and

merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; whether at auction, by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed; and

(f) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and copies of all advertising, whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto; and

(g) Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor; and

(h) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(2) At the time of the filing of the application a fee of fifty dollars (\$50.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1984 Code, § 5-203)

9-204. Investigation and issuance. (1) Upon receipt of such application, within seventy-two (72) hours, the city recorder shall cause investigation of such person's or persons' business responsibility and moral character to be made as deemed necessary for the protection of the public good. If, as a result of such investigation, the applicant's character and business responsibility are found to be potentially detrimental to the public good the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the city recorder shall so certify in writing, and a permit shall be issued by the city recorder. The city recorder shall keep a full record of all permits issued. Such permit shall contain the number of the permit, the date the same is issued, the nature of the business authorized to be carried on, the expiration date of said permit, the place where said business may be carried on under said permit, and the name or names of the person or persons authorized to carry on the same. Prior to the issuance of a permit by the city recorder, the applicant shall comply with all requirements as may be mandated by the State of Tennessee, the County of Humphreys, and the city, including, but not limited to business tax licenses and sales tax registration.

(2) In connection with such investigation the city recorder shall have the help and assistance of any and all other officers and employees of the city as may be reasonably necessary. (1984 Code, § 5-204)

9-205. Bond. Before any permit, as provided by this chapter, shall be issued for engaging in a transient or itinerant business as defined in § 9-202 such applicant shall file with the city recorder a bond running to the city in the sum of \$1,000 executed by the applicant, as principal, and two solvent sureties upon which service of process may be made in the State of Tennessee or a surety bond written by a company licensed to do business in the State of Tennessee, conditioned that the said applicant shall comply fully with all of the provisions of the Waverly Municipal Code and the statutes of the State of Tennessee and will pay all judgments rendered against said applicant for any violation of said code or the statutes, or any of them, together with all judgments and costs that may be recovered against the applicant by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting business with such applicant, whether said misrepresentations or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the city for the use of the aggrieved person. (1984 Code, § 5-205)

9-206. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgement of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1984 Code, § 5-206)

9-207. Exhibition of permit. The permit issued under this chapter shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said permit shall desire to do business in more than one place within the city, separate permits may be issued for each place of business, and shall be posted conspicuously in each place of business. (1984 Code, § 5-207)

9-208. Location of premises. Permittees under this chapter shall comply with the terms and conditions of the zoning ordinance of the city in all respects, both as to the uses permitted in a particular zone and the requirements for location of the business on the premises upon which business is to be conducted. In addition, the permittee shall provide to the city recorder a letter showing permission of the owner or manager of the premises upon which said business will be conducted, giving permission for the use of said premises by the permittee. (1984 Code, § 5-208)

9-209. Transfer. No permit shall be transferred without written consent from the city recorder as evidenced by an endorsement on the face of the permit by the city recorder showing to whom the permit is transferred and the date of the transfer. (1984 Code, § 5-209)

9-210. Loud noises and speaking devices. No permittee under this chapter, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys or parks or other places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1984 Code, § 5-210)

9-211. Duty of police to enforce. It shall be the duty of the police officers of the city to examine all places of business and persons subject to the provisions of this chapter, to determine if this chapter has been complied with and to enforce the provisions of this chapter against any person found to be violating the same. (1984 Code, § 5-211)

9-212. Records. The city recorder shall deposit the record of a permit number with the chief of police who shall report to the city recorder any complaint against any person issued a permit under the provisions of this chapter and any conviction for violation of this chapter; the city recorder shall keep a record of all such permits and of such complaints and violations. (1984 Code, § 5-212)

9-213. Revocation of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

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

(b) Any violation of or non-compliance with this chapter; or

(c) Conviction of any crime or misdemeanor; or

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

(2) When reasonably necessary in the public interest the city recorder may suspend a permit pending any revocation hearing. (1984 Code, § 5-213)

9-214. Reapplication. No permittee whose license has been revoked may make further application until a period of at least six (6) months shall have elapsed since the last revocation. (1984 Code, § 5-214)

9-215. Appeal. Any person aggrieved by the decision of the city recorder in regard to the denial of application for a permit as provided for in § 9-204 of this chapter or in connection with the revocation of a permit as provided for in § 9-213 of this chapter, shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the city manager within fourteen (14) days after notice of the decision by the city recorder has been given to such person a written statement setting forth the grounds for the appeal. The time and place for a hearing on such appeal and notice of such hearing shall be given to such person at least seven (7) days prior to the hearing date. (1984 Code, § 5-215)

9-216. Judicial review of board action. The action of the board in connection with the issuance of a permit of any kind, including any revocation, may be reviewed by statutory writ of certiorari from the Circuit or Chancery Courts of Humphreys County, Tennessee. (1984 Code, § 5-216)

9-217. Expiration of permit. All permits issued under the provisions of this chapter shall expire seventy-two (72) hours after the date of issuance thereof. Provided, however, such permits may be renewed or extended by the city recorder for additional seventy-two (72) hour periods upon satisfactory showing that there have been no changes in the application and facts stated therein. (1984 Code, § 5-217)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1984 Code, § 5-301)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1984 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1984 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1984 Code, § 5-304)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Place of business; parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.
- 9-417. Meters and fares.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business within the City of Waverly unless he has first obtained a taxicab franchise from the city and has a currently effective privilege license.

Taxicabs licensed by other incorporated cities and towns are excepted from the foregoing provisions when delivering a passenger into Waverly from outside the city. (194 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the recorder and shall be accompanied by a five dollar (\$5.00) filing fee. 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 said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits

¹Municipal code reference
Privilege taxes: title 5.

of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after filing of an application 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. The board of mayor and aldermen shall thereupon hold a public hearing at which 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 such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1984 Code, § 5-402)

9-403. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the city. (1984 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, after five (5) day's notice and a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1984 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any taxicab to operate in the city unless it is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, 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 parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1984 Code, § 5-405)

9-406. Cleanliness of vehicles. 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 every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1984 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semi-annually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1984 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1984 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing 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) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) 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) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1984 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for traffic violations or violation of this chapter. (1984 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the city for the purpose of obtaining patronage for their cabs. (1984 Code, § 5-411)

9-412. Place of business; parking restricted. The city will not issue or renew any taxicab permit unless the applicant has an established place of business from which to operate his taxicabs. An established place of business shall mean a building in which the applicant maintains his office and telephone and does not include any stairway entrance from the street, the side of a building, or a light or telephone pole. The applicant shall satisfy the recorder as to this requirement before the recorder accepts his application for a permit. The recorder will then present this evidence and application to the board for action.

It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the city for the use of taxicabs. It is provided, however, that 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 unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1984 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1984 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1984 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. 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. (1984 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1984 Code, § 5-416)

9-417. Meters and fares. Every person now owning, operating or controlling any motor vehicle operating as a taxicab within the limits of the City of Waverly shall be required to purchase and install in and upon each such vehicle a taximeter of standard type and nomenclature.

No person shall hereafter be issued a permit to operate any motor vehicle as a taxicab within the limits of the City of Waverly without first purchasing and installing in and upon every vehicle to be so operated a taximeter of standard type and nomenclature.

No person owning, operating or controlling any motor vehicle operating as a taxicab within the limits of the City of Waverly shall make charges exceeding the following rates, said rates to be determined by a taximeter, as follows, to wit: For the first mile or fraction thereof, forty (40) cents; for each succeeding one-fifth mile or fraction thereof, the sum of eight (8) cents; for each five (5) minutes of waiting time the sum of thirty (30) cents.

No person shall charge less than thirty-five (35) cents for the first mile or fraction thereof and seven (7) cents for each additional one-fifth mile or fraction thereof and twenty-five (25) cents for each five (5) minutes of waiting time.

No taximeter, although of a standard type, shall be used if it computes the fare to be charged on any basis other than the distance actually traveled; that is, the time consumed on any journey or trip shall not be considered in computing the fare to be charged. Waiting time shall be charged only for waits, stops, or delays caused solely by the passenger, and shall not apply to stops, delays or failures to move from other causes. The driver must inform the passenger of the time of his arrival and readiness to commence the journey before waiting time can be computed.

Every passenger of any taxicab shall be allowed to have conveyed with him in such vehicle, without charge therefor, his ordinary light traveling baggage, and as many guests as the seating capacity of the taxicab permits. A fee of thirty-five (35) cents may be charged for conveying a passenger's trunk that can be conveniently transported to the passenger's destination.

If demanded by the passenger, the driver in charge of the taxicab shall deliver to the person paying for the hiring of same, a receipt therefor in legible type or writing, containing the name of the owner and the license number of the cab, and showing the total amount paid and the date of payment. (1984 Code, § 5-417)

CHAPTER 5

POOL ROOMS¹

SECTION

9-501. Hours of operation regulated.

9-502. Minors to be kept out; exception.

9-501. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1984 Code, § 5-5012)

9-502. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, to permit any person under the age of sixteen (16) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls; or to permit any person from the age of sixteen (16) to eighteen (18) to engage in such activity without first having obtained the written consent of the father, mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences.

It shall be the duty of the owner, operator, manager or person in charge of such pool room to ascertain or determine the age of any such player and ignorance of the age or misinformation relative thereto shall not excuse any such owner, operator, manager or person in charge. (1984 Code, § 5-502)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

CABLE TELEVISION¹

SECTION

- 9-601. Short title.
- 9-602. Definitions.
- 9-603. Grant of authority.
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- 9-605. Renewal.
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- 9-608. New grades or lines.
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- 9-627. Technical standards.
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- 9-629. Proprietary information.
- 9-630. Transfer of cable system or control of Comcast.
- 9-631. Insurance.
- 9-632. Indemnification.
- 9-633. Notice of violation of default.
- 9-634. Public hearings.

¹Ordinances approving transfer and assignments are of record in the recorder's office.

- 9-635. Enforcement.
- 9-636. Technical violation.
- 9-637. Competing franchises.
- 9-638. Subsequent change in law.
- 9-639. Meaning of USP.
- 9-640. Entire franchise terms and conditions.
- 9-641. Severability.
- 9-642. Governing law.
- 9-643. Modification.
- 9-644. No third-party beneficiaries.
- 9-645. Acceptance of grant of franchise.

9-601. Short title. This chapter shall be known as and may be cited as the "Comcast Cable Television Franchise 2009." (1984 Code, § 13-401, as replaced by Ord. #2009-7, June 2009)

9-602. Definitions. For the purposes hereof capitalized terms, phrases, words, and abbreviations have meanings as follows unless otherwise elsewhere specifically defined herein:

(1) "Cable Act" means the Federal Cable Communications Policy Act of 1984, as amended, codified in 47 United States Code.

(2) "Cable service" means cable-delivered retail video services offered by Comcast to subscribers in the franchise area.

(3) "Cable system" means the infrastructure and facilities for delivery of cable service.

(4) "City" means the City of Waverly, Tennessee, a municipal corporation and body politic, organized and existing under the laws of the State of Tennessee, having power and authority to grant permission to use its public ways, streets, alleys and sidewalks and its other publically owned lands and facilities to video service providers.

(5) "Comcast" means Comcast of Nashville I LLC, a Tennessee limited liability company.

(6) "Customer" means a person using the cable system who lawfully receives cable service.

(7) "Effective date" is September 12, 2008 at 12:01 A.M. prevailing Central Time.

(8) "FCC" means the Federal Communications Commission or the successor federal governmental entity thereto.

(9) "Franchise" means the authorization issued by the city to Comcast by this chapter whether designated as a franchise, agreement, permit, or license which authorizes construction and operation of the cable system.

(10) "Franchise area" means the present legal boundaries of the city as of the effective date and all areas incorporated thereto thereafter by annexation or other legal means.

(11) "Gross revenue" means cable service revenue derived from operation of the cable system calculated in accordance with generally accepted accounting principles. Gross revenue includes that billed and actually received from monthly basic, premium, and pay-per-view video fees, advertising and home shopping revenue, installation fees, and equipment rental fees. Gross revenue does not include revenue from refundable deposits, from investment income, from advertising sales commissions, from taxes, surcharges and governmental fees or assessments, from franchise fees, from exchange for supplying of goods and services, from refunds, rebates or discounts, from digital voice services, from information services, from Internet access services or from Internet advertising services, from returned check fees, from late fees, from interest, from sale or rental of property, from inside wiring plans, from reimbursement of costs, and from reimbursements by programmers of marketing costs incurred for promotion or introduction of video programming.

(12) "Person" means a natural person and any association, firm, partnership, trust, limited liability company, joint venture, corporation or other legally recognized entity, whether for-profit or not-for-profit, but does not include the city.

(13) "Public way" means the surface and the space above and below any public street, highway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the city in the franchise area which entitle city to use thereof for the purpose of installing, operating, repairing, and maintaining the cable system. Public way also means any easement now or hereafter held by city in the franchise area for the purpose of public travel or for utility or public service use dedicated for compatible uses and includes other easements or rights-of-way within their proper use and meaning which entitle city to use thereof for the purposes of installing, operating, and maintaining the cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and appurtenant to the cable system. (1984 Code, § 13-402, as replaced by Ord. #2009-7, June 2009)

9-603. Grant of authority. Subject to all of the terms, provisions, conditions and obligations timely performed by Comcast, city grants to Comcast the non-exclusive franchise authorizing Comcast to construct and operate the cable system in the public ways within the franchise area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in any public way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system

and to provide such services over the cable system as may be lawfully allowed. (Ord. #1991-5, Feb. 1991, as replaced by Ord. #2009-7, June 2009)

9-604. Term of franchise. The duration and continuation of the franchise is five (5) years commencing at the effective date and expiring September 10, 2013 at 12:00 midnight prevailing Central Time ("termination date") unless lawfully terminated in accordance with the terms of the franchise, by state law, or by the Cable Act. (1984 Code, § 13-404, as replaced by Ord. #2009-7, June 2009)

9-605. Renewal. A renewal of the franchise at the termination date is governed by and will comply with the provisions of the Cable Act. (1984 Code, § 13-405, as replaced by Ord. #2009-7, June 2009)

9-606. Reservation of authority. Nothing in the franchise abrogates the right of city to perform public works or improvements of any description. Nothing in the franchise shall be construed as a waiver of any codes or ordinances of general applicability promulgated by city nor as a waiver or release of the rights of city in and to the public ways. (1984 Code, § 13-406, as replaced by Ord. #2009-7, June 2009)

9-607. Permits and general obligations. Comcast is responsible for obtaining at its own cost and expense all generally applicable permits, licenses or other forms of approval or authorization necessary to construct, operate, maintain or repair the cable system, or any part thereof, prior to commencement or continuation of any such activity. Construction, installation, and maintenance of the cable system shall be performed in a safe, thorough, and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, lines, and equipment installed by Comcast for use in the cable system shall be located so as to minimize interference with the proper use of the public ways and the rights and reasonable convenience of property owners who own property that adjoins such public way. (1984 Code, § 13-407, as replaced by Ord. #2009-7, June 2009)

9-608. New grades or lines. If the grades or lines of a public way are lawfully changed at any time during the term of the franchise then Comcast upon reasonable advance written notice from city shall at its own cost and expense protect or promptly alter or relocate the cable system, or any part thereof, to conform with any such new grades or lines. If public funds are available to any other user of the public way for the purpose of defraying the cost thereof city shall notify Comcast of such funding and make such funds available to Comcast to the extent that city may be able to do so. (1984 Code, § 13-408, as replaced by Ord. #2009-7, June 2009)

9-609. Relocation at request of third party. Upon reasonable prior written request of any person holding a permit issued by city to move any structure, Comcast shall temporarily move its wires to permit the moving of such structure; provided, Comcast may impose a reasonable charge on any person so requesting for the movement of the wires. Such charge may be required to be paid in advance of the movement of its wires. Comcast shall be given not less than ten (10) business days advance written notice to arrange for such temporary relocation. (1984 Code, § 13-409, as amended by Ord. #1991-5, Feb. 1991, and replaced by Ord. #2009-7, June 2009)

9-610. Restoration of public ways. If the construction, operation, maintenance or repair of the cable system disturbs, alters or damages any public way, Comcast shall at its own cost and expense replace and restore such public way to a condition reasonably comparable to the condition of the public way which existed immediately prior to the disturbance. (1984 Code, § 13-410, as amended by Ord. #1984-16, Nov. 1984, §§ 1 and 3, and Ord. #1991-5, Feb. 1991, and replaced by Ord. #2009-7, June 2009)

9-611. Safety requirements. Comcast at its own cost and expense shall undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. Work undertaken on the cable system shall be performed substantially in accordance with applicable FCC or other federal and state regulations. The cable system and the operation thereof shall not unreasonably endanger or interfere with safety of persons or property in the franchise area. (Ord. #1991-5, Feb. 1991, as replaced by Ord. #2009-7, June 2009)

9-612. Trimming of trees and shrubbery. Comcast may trim trees or other natural growth overhanging its cable system in public ways to prevent contact with the wires, cables or other equipment of the cable system. All such trimming shall be done at the sole cost and expense of Comcast. Comcast shall be responsible for any damage caused by such trimming. (1984 Code, § 13-412, as replaced by Ord. #2009-7, June 2009)

9-613. Aerial and underground construction. At the time of construction of any new or replacement portion of the cable system if all of the transmission and distribution facilities of respective public or municipal utilities in that area of the franchise area are underground, Comcast shall place the cable system transmission and distribution facilities so constructed underground; provided that such underground locations are actually capable of accommodating the cable and other equipment without technical degradation of the cable system signal quality. In any region of the franchise area where transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, Comcast shall have the discretion to construct, operate

and maintain its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing herein shall be construed to require Comcast to construct, operate or maintain underground configuration of any above ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals or other related equipment. (1984 Code, § 13-413, as amended by Ord. #1991-5, Feb. 1991, and replaced by Ord. #2009-7, June 2009)

9-614. Undergrounding and beautification projects. In the event all users of a public way relocate aerial facilities underground as part of undergrounding or as a neighborhood beautification project, upon reasonable prior written notice, Comcast shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Relocation costs associated therewith shall be included in any computation of necessary project funding by the city or by private parties. Comcast shall be entitled to reimbursement of its relocation costs from public or private funds raised for such project and made available to other users of the public ways. (1984 Code, § 13-414, as replaced by Ord. #2009-7, June 2009)

9-615. General service obligation. Comcast shall make cable service available to every residential dwelling unit within the franchise area where the minimum density is at least twenty-five (25) dwelling units per mile if within one (1) mile of the existing cable system as measured from the nearest point of connection to the existing distribution cable. Subject to such density requirement, Comcast shall offer cable service to all new homes or previously unserved homes located within one hundred twenty-five feet (125') of the distribution cable. Comcast may elect to provide cable service to areas not meeting the above density and distance standards. Comcast may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of the above standards. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds the standards set forth above. (1984 Code, § 13-415, as replaced by Ord. #2009-7, June 2009)

9-616. Programming. Comcast shall offer all customers a diversity of video programming services. (1984 Code, § 13-416, as replaced by Ord. #2009-7, June 2009)

9-617. No discrimination. Comcast shall not discriminate nor permit discrimination between or among any persons in the availability of cable services or other services provided in connection with the cable system in the franchise area. It shall be the right of all persons to receive all available services provided on the cable system so long as such financial or other obligations to Comcast are satisfied. Nothing contained herein shall prohibit Comcast from

offering bulk discounts, promotional discounts, package discounts or other such pricing strategies as part of its business practice. (1984 Code, § 13-417, as replaced by Ord. #2009-7, June 2009)

9-618. New developments. City shall provide Comcast written notice of issuance of building or development permits for planned developments within the franchise area requiring undergrounding of cable facilities. City will require developers, as a condition for issuing a permit, to give Comcast access to open trenches for deployment of cable facilities. A developer shall give Comcast at least sixty (60) business days' written notice of the date of availability of open trenches. In the event a developer or property owner fails to give the required notice the developer or property owner shall be responsible for the cost of new trenching for the installation of facilities and equipment by Comcast. (1984 Code, § 13-418, as replaced by Ord. #2009-7, June 2009)

9-619. Customer service standards. There is adopted by reference the customer service standards set forth in part 76, § 76.309 of FCC rules and regulations. Comcast shall comply in all respects with the customer service requirements established by the FCC. (1984 Code, § 13-419, as replaced by Ord. #2009-7, June 2009)

9-620. Customer bills. Customer bills shall be designed in such a way as clearly and comprehensively presents the information contained therein to customers and in a way that is not misleading and does not omit material intonation. Comcast may in its sole discretion consolidate costs on customer bills permitted by the Cable Act. (1984 Code, § 13-420, as replaced by Ord. #2009-7, June 2009)

9-621. Privacy protection. Comcast shall comply with all applicable federal and state privacy laws including the Cable Act and regulations adopted pursuant thereto. (1984 Code, § 13-421, as replaced by Ord. #2009-7, June 2009)

9-622. Franchise fees. Comcast shall pay to city a franchise fee in an amount equal to five percent (5%) of annual gross revenues; provided, however, Comcast shall not be compelled to pay a higher percentage rate for franchise fees than any other video service provider providing consumer video service utilizing facilities installed in the public ways in the franchise area. Payment of franchise fees shall be made on an annual basis and shall be due no later than forty-five (45) days after the close of each calendar year. Each franchise fee payment shall be accompanied by a report prepared by Comcast showing the basis for computation of the franchise fees paid during the covered remitting period. (1984 Code, § 13-422, as replaced by Ord. #2009-7, June 2009)

9-623. Inspection of records. Upon reasonable prior written notice, during normal business hours at the principal business office of Comcast in Nashville, Tennessee, city may inspect Comcast financial records used to audit the calculation of the franchise fees; provided, however, that any such inspection shall occur no more often than annually and shall take place within two (2) years from the date city receives a calendar year payment and after which period any such payment shall be considered final unless it shall appear that there was intentional and material miscalculation and remittance on the part of Comcast. (1984 Code, § 13-423, as replaced by Ord. #2009-7, June 2009)

9-624. Underpayment of franchise fees. Upon the completion of an audit city shall provide Comcast a final report setting forth the city's findings in detail including any and all substantiating documentation. In the event of an alleged underpayment, Comcast shall have thirty (30) days from receipt of the report to provide city a written response agreeing to or refuting the results of the audit including any substantiating documentation. Based on those reports and responses, city and Comcast shall endeavor in good faith to agree on a finally settled amount. For this purpose "finally settled amount" means the agreed amount of underpayment, if any, due to the city by Comcast as a result of any such audit. If city and Comcast cannot agree on a finally settled amount the dispute shall be submitted to a mutually agreed mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation either city or Comcast may bring an action to have the final settled amount determined by a court of law. For this purpose such action shall be limited to being filed in the Circuit or Chancery Courts of the State of Tennessee at Waverly, to the jurisdiction of which and at the venue thereof Comcast submits by acceptance of the franchise and operation of the cable system deriving gross revenue from the cable service. (1984 Code, § 13-424, as replaced by Ord. #2009-7, June 2009)

9-625. Payment of finally settled amounts. Any finally settled amount due city as a result of an audit shall be paid by Comcast within thirty (30) days from the date the parties agree on the finally settled amount or from the date the same is awarded by the court, whichever first occurs. Once a finally settled amount is paid, city shall have no further rights to audit or challenge the payment for that period. City shall bear the expense of its review of Comcast's books and records unless it is determined that Comcast intentionally and materially miscalculated its report and tender of franchise fees due and in which event Comcast shall be responsible for all thereof. (1984 Code, § 13-425, as replaced by Ord. #2009-7, June 2009)

9-626. Oversight of franchise. In accordance with applicable law, city has the right on reasonable prior written notice and in the presence of a Comcast employee to periodically inspect construction and maintenance of the cable

system in the franchise area as necessary to monitor compliance with the provisions of the franchise. (Ord. #1991-5, Feb. 1991, as replaced by Ord. #2009-7, June 2009)

9-627. Technical standards. Comcast shall comply with all applicable technical standards of the FCC as published in subpart K of 47 CFR § 76. To the extent those standards are altered, modified or amended during the term of the franchise, Comcast shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. Upon written request Comcast shall promptly furnish to city a copy of tests and records required to be performed by Comcast pursuant to FCC rules. (1984 Code, § 13-427, as replaced by Ord. #2009-7, June 2009)

9-628. Books and records. Throughout the term of the franchise, city may review Comcast's books and records regarding customer service performance levels in the franchise area to monitor compliance with the provisions of the franchise. City as a condition therefor shall give reasonable prior written notice to Comcast at its business office in Nashville, Tennessee, during normal business hours. Such review shall be performed without unreasonably interfering with Comcast business operations. All documents subject to an inspection by city shall be retained by Comcast for a minimum period of two (2) years. (1984 Code, § 13-428, as replaced by Ord. #2009-7, June 2009)

9-629. Proprietary information. Notwithstanding anything to the contrary set forth in the franchise, Comcast shall not be required to disclose information which is reasonably deemed to be proprietary or confidential in nature. Any information disclosed to city by Comcast shall be treated as confidential and only disclosed to employees, representatives and agents of city who have a need to know in order to enforce the terms of the franchise. City shall require those employees, agents and representatives to agree to maintain the confidentiality of such information. Comcast shall not be required to provide customer information in violation of the Cable Act nor any other applicable federal or state privacy law. For purposes of the franchise, the terms "trade secret," "proprietary" or "confidential" include, but are not limited to, information relating to cable system design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules and other information reasonably determined by Comcast to be competitively sensitive. Comcast may make proprietary or confidential information available for inspection, but not for copying or removal by the city. In the event the city has in its possession and receives a request under a state "sunshine," public records or similar law for disclosure of information that Comcast has designated as confidential, trade secret or proprietary, city shall notify Comcast of such request and cooperate with

Comcast in opposing such request. Comcast has the right to require employees, representatives, and agents of city to enter into a non-disclosure agreement with Comcast prior to conducting a review of Comcast books and records subject to this franchise. (1984 Code, § 13-429, as replaced by Ord. #2009-7, June 2009)

9-630. Transfer of cable system or control of Comcast. Neither Comcast nor any other person shall transfer the franchise without prior written consent of city and which consent shall not be unreasonably withheld or delayed. No such consent shall be required, however, for transfer in trust, mortgage, hypothecation or assignment of rights, title, or interest of Comcast in the franchise or in the cable system in order to secure an indebtedness owed by Comcast or a transfer to an entity directly or indirectly owned or controlled by Comcast Cable Communications LLC ("Comcast parent"). No such permitted transfer shall relieve Comcast of any obligation imposed on it by the terms of this chapter unless specifically released by city by formal action adopted by city. Within thirty (30) days of receiving a request for consent, in accordance with applicable FCC rules and regulations, city will notify Comcast in writing of additional information, if any, required to determine the legal, financial, and technical qualifications of the proposed transferee or new controlling party. If city does not taken final action on the request for consent within one hundred twenty (120) days after receiving such request then consent shall be deemed to have been granted by city. Any transferee shall be bound by the terms of the franchise. (1984 Code, § 13-430, as replaced by Ord. #2009-7, June 2009)

9-631. Insurance. Throughout the term of the franchise, Comcast shall maintain comprehensive general liability insurance and provide city copies of certificates of insurance designating city, the officers, boards, commissions, councils, elected officials, agents, attorneys, and employees of city, as additional insureds and which certificates demonstrate that Comcast has obtained the required insurance. Such policy or policies shall be in a minimum amount of one million dollars (\$1,000,000.00) for bodily injury or death to any one (1) person and one million dollars (\$1,000,000.00) for bodily injury or death of any two (2) or more persons resulting from one (1) occurrence, and one million dollars (\$1,000,000.00) for property damage resulting from any one (1) accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to city. Comcast shall furnish replacement coverage and furnish to city evidence thereof prior to the end of such notice of cancellation period and on failure to do so Comcast shall forfeit to city a penalty in the amount of five thousand dollars (\$5,000.00) in addition to forfeiture of the franchise. Comcast shall provide worker compensation coverage in accordance with applicable law. Comcast shall indemnify and hold city harmless from worker compensation claims for which Comcast may be subject during the term of the franchise. (1984 Code, § 13-431, as replaced by Ord. #2009-7, June 2009)

9-632. Indemnification. Comcast shall indemnify, defend, and hold city and its officers, employees, attorneys and agents harmless from and against liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of Comcast's construction, operation, maintenance or removal of the cable system, including, but not limited to, reasonable attorneys' fees and costs. If the city determines that it is necessary to employ separate counsel the cost for such separate counsel shall be the responsibility of city. (1984 Code, § 13-432, as replaced by Ord. #2009-7, June 2009)

9-633. Notice of violation or default. In the event city determines that Comcast has not complied with a material term of the franchise, unless otherwise herein provided, city shall notify Comcast in writing with specific details regarding the exact nature of the alleged noncompliance or default. Comcast shall have forty-five (45) days from receipt of the notice:

- (1) To respond contesting the assertion of noncompliance or default; or
- (2) To cure such default; or
- (3) If the nature of the default cannot be cured within the forty-five (45) day period then within such time initiate reasonable steps to remedy such default and notify city of the steps being taken and the projected date that the cure will be completed. If not cured within the projected cure date Comcast shall forfeit to city a penalty of five thousand dollars (\$5,000.00) in addition to forfeiture of franchise. (1984 Code, § 13-433, as replaced by Ord. #2009-7, June 2009)

9-634. Public hearings. In the event Comcast fails to respond to the city's notice or in the event the alleged default is not remedied within forty-five (45) days or by the date projected by Comcast, city shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the governing body of city not less than ten (10) business days therefrom. City shall notify Comcast in writing of the time and place of such meeting and provide Comcast reasonable opportunity to be heard. (as added by Ord. #2009-7, June 2009)

9-635. Enforcement. Subject to applicable federal and state law, after such public hearing, in the event city determines that Comcast is in default of a material provision of the franchise, city may:

- (1) Seek specific performance of a provision that reasonably lends itself to such remedy as an alternative to damages or seek other equitable relief;
- (2) Recover any applicable penalty amount provided in the franchise; and/or
- (3) In the case of a substantial default of a material provision declare the franchise forfeited and/or revoked in accordance with the following:

(a) Give written notice to Comcast of intent to revoke the franchise on the basis of the noncompliance. Notice shall set forth with specificity the exact nature of the noncompliance. Comcast shall have ninety (90) days from receipt of such notice to object in writing and state reasons for such objection. In the event the city does not receive a response from Comcast or if upon receipt of the response city does not agree with Comcast's proposed remedy, city may then seek termination and revocation of the franchise at a further public hearing. City shall serve on Comcast at least ten (10) days prior to such public hearing a written notice specifying the time and place thereof and stating an intent to revoke and terminate the franchise.

(b) At the termination hearing, city shall give Comcast opportunity to further state its position on the matter, present evidence, and question witnesses, after which the governing body of city shall determine whether or not the franchise is forfeited, revoked and terminated. The public hearing shall be on the record and a written transcript shall be made available to Comcast within ten (10) business days. The decision of the city shall be in writing and shall be delivered to Comcast by certified mail. In addition to termination the governing body may impose a civil penalty on Comcast in an amount not to exceed twenty-five thousand dollars (\$25,000.00). Comcast may appeal any determination to the Circuit or Chancery Court of the State of Tennessee at Waverly, Tennessee which courts shall have the jurisdiction and power exclusively to review the decision de novo and to modify or reverse such decision as justice may require. (as added by Ord. #2009-7, June 2009)

9-636. Technical violation. Comcast will not be assessed penalties or fines nor shall forfeitures or revocations of the franchise be imposed for technical breaches or violations of the franchise where the violation or breach was done in good faith and the error that resulted had no or minimal negative impact on customers within the franchise area; or where circumstances reasonably existed beyond the control of Comcast precipitating the breach or a violation prevented Comcast from complying with a term or condition of the franchise. (as added by Ord. #2009-7, June 2009)

9-637. Competing franchises. Notwithstanding any other provision of the franchise or any other provision of law, if another Video Service Provider (VSP):

(1) Obtains a competing franchise from city to provide video services to subscribers in city; or

(2) Otherwise provides video services to subscribers in city (with or without entering into a specific agreement with or obtaining a specific franchise from city) utilizing the public ways, regardless of the technology used to deliver such video services, Comcast shall be permitted to construct and operate the

cable system and provide video services to subscribers under the same terms of such competing franchise utilizing the public ways granted by the city for the services and/or under the same terms and conditions as apply to the competing VSP. To exercise such other appropriate authorization containing the same terms and conditions as are applicable to the competing VSP, Comcast must apply to city for an amendment to the franchise setting forth its request to amend the franchise. City shall promptly conduct such inquiry as necessary concerning the details thereof, but in all events must take appropriate action within ninety (90) days. During the ninety (90) day period city must develop and adopt an appropriate authorization that to the maximum extent possible contains provisions that insure competitive equity between Comcast and such competing VSP taking into consideration the terms and conditions under which the competing VSP is allowed to provide video services to subscribers in city utilizing the public ways. (as added by Ord. #2009-7, June 2009)

9-638. Subsequent change in law. If there is a change in federal, state or local law that provides a new or alternative form of authorization for a VSP to provide video services to subscribers utilizing the public ways in the city or that otherwise changes the nature or extent of the obligations that the city may require or impose on a VSP providing video services to subscribers utilizing the public ways in city; notwithstanding any other provision of law, upon Comcast's written request, city shall:

(1) Permit Comcast to provide video services to subscribers on the same terms and conditions as are applicable to a VSP under the changed law;

(2) Modify the franchise, as necessary, to comply with the changed law;

or

(3) Modify the franchise to insure competitive equity between Comcast and a competing VSP utilizing the public ways taking into consideration the conditions under which the competing VSP is permitted to provide video services to subscribers in city.

City shall implement the provisions of the change in law within sixty (60) days after Comcast submits written request to the city. Notwithstanding any provision of law that imposes a time or other limitation on the ability of Comcast to take advantage of a changed in the applicable law, Comcast may exercise the rights assured hereby at any time, but not sooner than thirty (30) days after the changed law goes into effect. (as added by Ord. #2009-7, June 2009)

9-639. Meaning of VSP. VSP shall mean any entity using the public ways to provide multiple video programming services to subscribers for purchase or at no cost, regardless of transmission method, facilities or technology used. VSP shall include, but is not limited to, any entity that

provides cable services over wired delivery of video service to residential customers in the franchise area. (as added by Ord. #2009-7, June 2009)

9-640. Entire franchise terms and conditions. This chapter embodies the entire terms and conditions of the franchise and supersedes all prior understandings, agreements, and communications, whether written or oral between city and Comcast. All ordinances or parts of ordinances in conflict with or which otherwise impose obligations different from the provisions of this franchise are superseded by the ordinance comprising this chapter. (as added by Ord. #2009-7, June 2009)

9-641. Severability. If any provision of this chapter for any reason is declared invalid in whole or in part by any court, agency, commission, legislative body or other authority having competent jurisdiction then such provision shall be deemed a separate, distinct, and independent portion hereof. Such declaration shall not affect the validity of the remaining portions hereof which other provision shall continue in full force and effect. (as added by Ord. #2009-7, June 2009)

9-642. Governing law. The franchise is granted and executed in the State of Tennessee and shall be governed in all respects, including validity, interpretation, construction and effect, in accordance with the laws of the State of Tennessee. (as added by Ord. #2009-7, June 2009)

9-643. Modification. Unless otherwise provided no provision of the franchise shall be deemed amended or otherwise modified, in whole or in part, except by further ordinance duly enacted by city. (as added by Ord. #2009-7, June 2009)

9-644. No third-party beneficiaries. Nothing in the franchise is intended to confer third-party beneficiary status on any member of the public to enforce the terms of the franchise. (as added by Ord. #2009-7, June 2009)

9-645. Acceptance of grant of franchise. In order to evidence its intention and agreement to accept the franchise as hereby granted and to operate and continue to operate the cable system in the franchise area, Comcast shall no later than thirty (30) days from and after final passage and approval of the ordinance comprising this chapter formally accept the franchise by appropriate written action by authorized officer or agent of Comcast delivered to city. Failure to do so shall be deemed rejection of the terms and conditions of the franchise and a refusal to accept the franchise. In such event all rights of

Comcast to operate the cable system in the franchise area shall immediately terminate and Comcast shall remove cable system from the public ways within sixty (60) days thereafter. Provided, however, during such time Comcast without affirmatively accepting in writing the franchise continues to operate the cable system and deliver cable services then until such removal it shall be liable for payment of franchise fees as provided in § 9-622. (as added by Ord. #2009-7, June 2009)

CHAPTER 7

ADULT-ORIENTED BUSINESSES

SECTION

9-701. Adult bookstore defined.

9-702. License to operate.

9-703. Application.

9-704. License to operate; qualifications.

9-705. Revocation, suspension or annulment of licenses.

9-706. Termination and renewal of licenses: applications, and fees.

9-707. Prohibited hours of operation; inspection.

9-708. Duties and responsibilities of licenses.

9-701. Adult bookstore defined. An adult bookstore is an establishment which has a substantial or significant portion of its stock in trade consisting of books, films, videos, or magazines which are distinguished or characterized by having an emphasis on matters depicting, describing or relating to sexual activities. (as added by Ord. #2000-5, April 2000)

9-702. License to operate. (1) No adult bookstore shall be operated in the municipal corporation without obtaining a license to operate from the board of mayor and aldermen.

(2) Only one adult bookstore license shall be issued in the municipal corporation at any given time.

(3) A license shall be for a fixed and certain location and may not be relocated, transferred or assigned by the licensee.

(4) No adult bookstore shall be operated within two thousand (2,000) feet, measured from property line to property line, of a school, church, public recreational facility, day-care facility, public or private park, playground, or picnic ground, or boundary of a residentially zoned lot devoted to single or multi-family residential use.

(5) No adult bookstore shall be licensed for a location in other than an industrially zoned, or classified, district. (as added by Ord. #2000-5, April 2000)

9-703. Application. (1) An applicant for a license shall furnish the following information in writing and under oath:

(a) Name and address of applicant including all aliases known by;

(b) Written proof that applicant, if an individual, is at least eighteen (18) years of age;

(c) All residential or business addresses of the applicant for the past three (3) years;

(d) Applicant's business, occupation, or employment for five (5) years immediately preceding the date of the application;

(e) A description of the adult bookstore or similar business history of applicant and whether a license issued to applicant has ever been revoked or suspended and the reason therefor;

(f) All criminal charges lodged against applicant for which a conviction, forfeiture of bond or plea of nolo contendere occurred except minor traffic violation;

(g) The address where the adult bookstore is proposed to be operated;

(h) The name and address of all persons holding a beneficial interest in the real estate where such establishment is to be operated, including, but not limited to, contract purchasers or sellers, beneficiaries of land trusts or lessees subletting to applicant;

(i) If the premises are leased or being purchased under contract a copy of the lease or contract shall accompany the application;

(j) If applicant is a corporation, the name of the corporation and the date and state of incorporation and the name and address of its registered agent.

(2) Failure or refusal of an applicant to give any information or refusal or failure to appear at any reasonable time and place for examination regarding the application constitutes an admission that applicant is ineligible for a license and shall be grounds for denial. (as added by Ord. #2000-5, April 2000)

9-704. License to operate; qualifications. To receive a license an applicant must meet the following standards:

(1) If an individual:

(a) Be at least eighteen (18) years of age;

(b) Not have been convicted nor plead nolo contendere to a felony or crime involving moral turpitude within ten (10) years immediately preceding the date of the application or the date of release from confinement or incarceration, whichever is later.

(2) If a corporation:

(a) Officers, directors and stockholders are at least eighteen (18) years of age;

(b) No officer, director or stockholder has been convicted of or plead nolo contendere to a felony or crime involving moral turpitude within ten (10) years immediately preceding the date of the application or the date of release from confinement or incarceration, whichever is later; and

(3) If a partnership, joint venture or other type of organization where two (2) or more persons have a financial interest:

(a) All persons having a financial interest are at least eighteen (18) years of age;

(b) No person having a financial interest has been convicted of or plead nolo contendere to a felony or crime involving moral turpitude within ten (10) years immediately preceding the date of the application or the date of release from confinement or incarceration, whichever is later. (as added by Ord. #2000-5, April 2000)

9-705. Revocation, suspension or annulment of licenses. (1) A license will be revoked, suspended or annulled for any of the following reasons:

(a) Discovery that false or misleading information or data was given on an application;

(b) A licensee or employee of a licensee violates an order, rule or regulation adopted by the city relative to adult bookstores;

(c) The licensee becomes ineligible to obtain a license;

(d) A fee required to be paid is not paid;

(e) Intoxicating liquor or malt beverages are used, served or consumed on the premises with knowledge or acquiescence of licensee.

(f) Narcotics or scheduled drugs are used, consumed or sold on the premises with knowledge or acquiescence of licensee.

(g) Prostitution or solicitations of prostitution is occurring at or from the licensed premises with knowledge or acquiescence of licensee.

(h) A licensee or an officer, director, member or employee of license has been convicted of violation of the pornography distribution, liquor, beer, or prostitution suppression laws of any jurisdiction.

(2) Before revoking or suspending a license, the licensee shall be given at least ten (10) days written notice of the charges and an opportunity for a public hearing before the board at which time the licensee may present evidence bearing upon the question. The charges shall be specified and in writing.

(3) A licensee or member, officer, director or stockholder of a licensee whose license is revoked will not be eligible to receive a license for five (5) years from the date of revocation.

(4) No premises at which a license has been revoked shall be licensed as an adult bookstore for two (2) years from the date of the revocation of the license. (as added by Ord. #2000-5, April 2000)

9-706. Termination and renewal of license: application and fees.

(1) Every license shall terminate at the expiration of one (1) year from the date of issuance unless sooner revoked and must be renewed before

operation may continue. A licensee desiring to continue a license shall make application not later than ninety (90) days before the current license expires.

(2) A license fee of \$1,000 shall be submitted with an application for a license or for renewal of a license. (as added by Ord. #2000-5, April 2000)

9-707. Prohibited hours of operation; inspection. (1) No adult bookstore shall be open on Sundays or between the hours of twelve o'clock (12:00 A.M.) and eight o'clock (8:00 A.M.) Mondays through Saturdays.

(2) An adult bookstore shall be open for inspection at all reasonable times by the board or its agents. (as added by Ord. #2000-5, April 2000)

9-708. Duties and responsibilities of licensees. (1) Licensees shall maintain a register of all employees, showing their names, aliases, home addresses, ages, birth dates, sex, height, weight, color of hair and eyes, telephone numbers, social security numbers, driver license numbers, dates of employment and termination and duties of each employee. The register shall be maintained on the licensed premises. Such information on an employee shall be maintained for a period of three (3) years following termination of employment.

(2) The employee register shall be available for inspection by the board or its agents at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed an act or omission of the licensee if such act or omission occurs with the acquiescence, authorization, knowledge, or approval of the licensee or as a result of negligent failure of licensee to supervise employee conduct.

(4) No minors shall be permitted to loiter around or frequent an adult bookstore nor view merchandise therein.

(5) An adult bookstore shall be physically arranged in a manner that the entire interior portion shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes or other obstruction whatsoever.

(6) A license shall be conspicuously displayed in the common area of the premises at all times.

(7) No licensee shall permit to be performed on the premises any acts of sexual intercourse, oral or anal copulation or other contact stimulation of human genitalia, or permit the offering to do the same. (as added by Ord. #2000-5, April 2000)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Definitions.
- 10-102. Animal shelter.
- 10-103. Animal control officer; police powers.
- 10-104. Animal control commission.
- 10-105. Ownership and keeping of animals restricted; permit required.
- 10-106. Issuance of permits.
- 10-107. Duration of permits.
- 10-108. Exhibition or display of animals.
- 10-109. Animals as prizes.
- 10-110. Quarantine of animals.
- 10-111. Killing of suspected rabid or vicious animals.
- 10-112. Impoundment of animals.
- 10-113. Reclaiming of animals.
- 10-114. Inspections.
- 10-115. Application of title to non-residents.

10-101. Definitions. As used in this chapter, the following terms mean:

- (1) "Owner" - Any person, partnership or corporation owning, keeping or harboring animals;
- (2) "Kennel" - Any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding dogs and cats or engaged in the training of dogs for guard or sentry purposes;
- (3) "Veterinary hospital" - Any establishment maintained and operated by a licensed veterinarian for the boarding of animals or the diagnosis and treatment of diseases and injuries of animals;
- (4) "Pet shop" - Any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding animals of any species;
- (5) "Animal" - Any living creature, domestic or wild;
- (6) "Animal shelter" - Any premises designated by the city for the purpose of impounding and caring for animals held under authority of this chapter;

(7) "Animal control officer" - Any person designated by the city as a law enforcement officer and who qualifies to perform such duties under the laws of the State of Tennessee;

(8) "Zoological garden" - Any park or zoo operated by a person or private corporation;

(9) "Circus" - A non-resident variety show which features animal acts;

(10) "Theatrical exhibit" - Any exhibition or act featuring performing animals;

(11) "Person" - An individual, partnership, company or corporation. (1984 Code, § 3-101)

10-102. Animal shelter. Upon the adoption of this chapter, the board of mayor and alderman of the City of Waverly shall provide for the construction of an animal shelter for the purpose of impounding and caring for animals held under authority of this chapter. (1984 Code, § 3-102)

10-103. Animal control officer; police powers. There is hereby established a position to be known as "Animal Control Officer" who shall be primarily responsible for the enforcement of this chapter and shall perform such other duties as the board of mayor and aldermen shall require.

Any animal control officer shall have police powers in the enforcement of this chapter and no person shall interfere with, hinder, molest or abuse any animal control officer in the exercise of such powers. (1984 Code, § 3-103)

10-104. Animal control commission. There is hereby established the "Animal Control Commission" which shall consist of not less than three (3) nor more than seven (7) members to be appointed by the mayor and who shall promulgate the rules and regulations for the implementation of this chapter and who shall be primarily responsible for the oversight of the operation of the animal shelter and who shall perform such other duties as may be required by the board of mayor and aldermen of the city. (1984 Code, § 3-104)

10-105. Ownership and keeping of animals restricted; permit required. No person shall, without first obtaining a permit therefor, in writing from the City of Waverly, own, keep, harbor or have custody of any animal over three months of age, except as this section shall not apply to the keeping of small caged birds or aquatic and amphibian animals solely as pets and with the further exceptions and restrictions contained herein:

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

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

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

No animal or fowl of any kind shall be kept or confined in any place where the food, water, shelter and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

(4) Keeping in such a manner as to become a nuisance prohibited. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passers-by, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property, shall be deemed a nuisance.

(5) Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1984 Code, § 3-105)

10-106. Issuance of permits. Upon a showing by any applicant for a permit that he is prepared to comply with the regulations promulgated by the animal control commission and that he is in compliance with all laws of the State of Tennessee relative to the vaccination of animals for rabies, a permit shall be issued following payment of the applicable fee, as follows:

(1)	For each male dog, or spayed dog	\$ 3.00
(2)	For each male cat, or spayed cat	1.00
(3)	For each unspayed female dog	10.00
(4)	For each unspayed female cat	5.00
(5)	For each kennel or pet shop covering all animals kept during the year	25.00
(6)	For any zoological garden or animal act, covering all animals kept	100.00
(7)	For each livery or riding stable covering all horses kept	50.00
(8)	For any abattoir, stock yards, hatchery, livestock auction, or other place where livestock or poultry are regularly bred, kept, offered for sale, or slaughtered	

- | | | |
|-----|---|--------|
| | for commercial purposes, covering all
animals kept during the year | 100.00 |
| (9) | No fee shall be required of any humane
society, veterinary hospital, or municipal
animal control facility. (1984 Code, § 3-106) | |

10-107. Duration of permits. A permit, if not revoked, shall be valid for one (1) year from the date of issue. A new permit shall be obtained each year by every owner and a new fee paid. If there is a change in ownership of an animal or facility, the new owner may have the current license transferred to his name upon payment of a \$1.00 transfer fee. (1984 Code, § 3-107)

10-108. Exhibition or display of animals. No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed so as to apply to a zoological garden, theatrical exhibit or circus as defined in this chapter, except that no theatrical exhibit or act shall be held in which animals are encouraged to perform through the use of chemical, electrical or mechanical devices. (1984 Code, § 3-108)

10-109. Animals as prizes. No person shall give away any live vertebrate animals as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade. (1984 Code, § 3-109)

10-110. Quarantine of animals. Any animal which bites a person shall be quarantined for ten (10) days if ordered by the city health officer. During quarantine, the animal shall be securely confined and kept from contact from any other animal. At the discretion of the Director of Health and Environment, the quarantine may be on the premises of the owner. If the Director of Health and Environment requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital. (1984 Code, § 3-110)

10-111. Killing of suspected rabid or vicious animals. Generally, no police officer or other person shall kill, or cause to be killed, any animal suspected of being rabid, except after the animal has been placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If the veterinarian diagnosis rabies in an animal in quarantine, then the animal shall be humanely killed and the head of such animal sent to a laboratory for pathological examination and confirmation of the diagnosis.

However, when because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be

summarily destroyed by the animal control officer or any policeman.¹ (1984 Code, § 3-111)

10-112. Impoundment of animals. Animals impounded under this chapter shall be taken by police, the animal control officer or any other duly authorized officer, and impounded in the animal shelter or other such suitable place commensurate with the size and character of the animal, and there confined in a humane manner. Impounded animals shall be kept for not less than seven (7) days unless reclaimed by their owners. If by any means available the owner can be identified, the animal control officer shall immediately, upon impoundment, notify the owner by telephone or mail of the impoundment of the animal. Animals not claimed by their owners within seven (7) days and thereafter placed in suitable new homes, shall be humanely euthanized or disposed of by the animal control officer or by any other agency to which authority has been delegated by the board of mayor and aldermen. (1984 Code, § 3-112)

10-113. Reclaiming of animals. An owner reclaiming an impounded animal shall pay a fee of \$10.00, plus \$1.00 for each day the animal has been impounded, to a total maximum fee of \$17.00. The owner may also be proceeded against for violation of this chapter and his permit may be revoked. (1984 Code, § 3-113)

10-114. Inspections. The health officer shall have the authority to enter any public or private premises at any reasonable time for the purpose of making inspections to insure compliance with the provisions of this chapter. (1984 Code, § 3-114)

10-115. Application of title to non-residents. The sections of this title requiring a permit shall not apply to non-residents of the city who are keeping only domestic pets, provided that animals of such owners shall not be kept in the city longer than thirty (30) days and that the animals are kept under restraint. (1984 Code, § 3-115)

¹State law reference

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

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Identification tag for dogs and cats.
- 10-203. Running at large prohibited.
- 10-204. Impoundment of dogs and cats.
- 10-205. Reclaiming of dogs and cats.
- 10-206. Female dogs and cats in heat.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law or to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the section. (1984 Code, § 3-201)

10-202. Identification tag for dogs and cats. Upon issuing a permit to keep any dog or cat, there shall be issued to the owner a durable tag or identification collar, stamped with an identifying number and with the year of issuance. Tags should be so designed that they can be conveniently fastened to the collar or harness. Dogs and cats must wear identification tags or collars at all times. There shall be maintained a record of the identifying numbers and this record shall be made available to the public. (1984 Code, § 3-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1984 Code, § 3-203)

10-204. Impoundment of dogs and cats. Unlicensed dogs or cats shall be taken by police, the animal control officer or any other duly authorized officer, and impounded in the animal shelter, and there confined in a humane manner. Impounded dogs and cats shall be kept for not less than seven (7) days unless reclaimed by their owners. If by any means available the owner can be identified, the animal control officer shall immediately, upon impoundment, notify the owner by telephone or mail of the impoundment of the animal. Dogs and cats not claimed by their owners within seven (7) days or thereafter placed

¹State law reference

Tennessee Code Annotated, §§ 44-8-408, 68-8-108 and 68-8-109.

in suitable new homes, shall be humanely euthanized or disposed of by the animal control officer or by any other agency to which authority has been delegated by the board of mayor and aldermen. (1984 Code, § 3-204)

10-205. Reclaiming of dogs and cats. An owner reclaiming an impounded dog or cat shall pay a fee of \$10.00, plus \$1.00 for each day the animal has been impounded, to a total maximum fee of \$17.00. The owner may also be proceeded against for violation of this chapter and his permit may be revoked. (1984 Code, § 3-205)

10-206. Female dogs and cats in heat. Every female dog or cat in heat shall be confined to a building or secure enclosure in such manner that such female dog or cat cannot come into contact with another animal except for planned breeding. (1984 Code, § 3-206)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking alcoholic beverages, on streets, etc.

11-101. Drinking alcoholic beverages, on streets, etc. It shall be unlawful for any person to drink or consume, or to have an open can, bottle or other container of beer or any intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, shopping center premises, parking apron of any business or other public place, unless such place has a beer or intoxicating liquor dispensing permit and license for on premise consumption and such drinking, consuming, or having open, is in compliance with the rules, regulations, and ordinances relative to such on premises consumption. (1984 Code, § 10-202)

¹Municipal code references

Animal control: title 10.

Housing and utilities: title 12.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

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

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1984 Code, § 10-1001)

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

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

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

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

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

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

(d) Pets. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.¹

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

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

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

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

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

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

¹Municipal code reference

Noise regulations governing animals: title 10.

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1984 Code, § 10-1002)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. Escape from custody or confinement.

11-302. False emergency alarms.

11-303. Resisting or interfering with a policeman or fireman.

11-304. Coercing people not to work.

11-305. Impersonating a governmental officer or employee.

11-301. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the 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. (1984 Code, § 10-701)

11-302. 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. (1984 Code, § 10-705)

11-303. Resisting or interfering with a policeman or fireman. It shall be unlawful for any person to resist or in any way interfere with or attempt to interfere with any police officer or fireman while such officer is in the discharge or apparant discharge of his duty. (1984 Code, § 10-702)

11-304. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1984 Code, § 10-302)

11-305. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore no person shall deceitfully impersonate or represent that he is any other government officer or employee. (1964 Code, § 10-703)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Air rifles, etc.

11-402. Throwing missiles.

11-403. Discharge of firearms.

11-401. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1984 Code, § 10-502)

11-402. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1984 Code, § 10-503)

11-403. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1984 Code, § 10-501, modified)

CHAPTER 5

MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Malicious mischief.

11-502. Interference with traffic.

11-501. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously or wantonly damage, deface, destroy, conceal, tamper with, remove, withhold, or trespass upon any real, personal or public property or other property which does not belong to him. (1984 Code, § 10-806)

11-502. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct or interfere with the free passage of pedestrian or vehicular traffic thereon. (1984 Code, § 10-704)

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Abandoned refrigerators, etc.

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

11-603. Posting notices, etc.

11-604. Curfew for minors.

11-605. Fortune telling, etc.

11-601. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox or other container with any type latching or locking door without first removing therefrom the latch, lock or door. (1984 Code, § 10-901)

11-602. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1984 Code, § 10-902)

11-603. Posting notices, etc. No person shall fasten, in any way, any show-card, poster or other advertising device upon any public or private property unless legally authorized to do so. (1984 Code, § 10-903)

11-604. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between the hours of 11:00 P.M. and 6:00 A.M. unless upon a legitimate errand or accompanied by a parent, guardian or other adult person having lawful custody of such minor. (1984 Code, § 10-1101)

11-605. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1984 Code, § 10-403)

CHAPTER 7

MEETINGS

SECTION

11-701. Conduct during meetings; violations.

11-701. Conduct during meetings; violations. No person shall by his or her words, actions, gestures, deeds or other manifested conduct, while in the presence of a duly assembled meeting of the board of mayor and aldermen of the City of Waverly, Tennessee act in a disorderly manner or treat with contempt such meeting or those conducting the same, whereby such words, actions, gestures, deeds or other manifested conduct obstructs or impedes the conduct of business before such meeting. Any person violating the provisions hereof shall be fined \$50. (Ord. #1988-24, Dec. 1988)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. [REPEALED.]
4. GAS CODE.
5. [REPEALED.]
6. MECHANICAL CODE.
7. [REPEALED.]
8. [REPEALED.]
9. EXISTING BUILDINGS CODE.
10. [REPEALED.]
11. [REPEALED.]
12. RESIDENTIAL CODE.
13. PROPERTY MAINTENANCE CODE.
14. ENERGY CONSERVATION CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

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

12-101. Building code adopted. The 2006 International Building Code² ("ICC Building Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (1984 Code, § 4-101, as amended by Ord. #1991-17, Dec. 1991, modified; Ord. #1997-8,

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

§ 1(a), July 1997; and Ord. #1998-11, Nov. 1998, as repealed and replaced by Ord. #2008-7, April 2008)

12-102. Modifications. (1) Definitions. Whenever in the ICC Building Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Building Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (1984 Code, § 4-102, as repealed and replaced by Ord. #2008-7, April 2008)

12-103. Available in recorder's office. One (1) copy of the ICC Building Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (1984 Code, § 4-103, as amended by Ord. #1991-17, Dec. 1991, as repealed and replaced by Ord. #2008-7, April 2008)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Building Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (1984 Code, § 4-104, as repealed and replaced by Ord. #2008-7, April 2008)

CHAPTER 2

PLUMBING CODE¹

SECTION

12-201. Plumbing code adopted.

12-202. Modifications.

12-203. Available in recorder's office.

12-204. Violations.

12-201. Plumbing code adopted. The 2006 International Plumbing Code² ("ICC Plumbing Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (1984 Code, § 4-201, as amended by Ord. #1991-17, Dec. 1991, modified; Ord. #1997-8, § 1(b), July 1997; and Ord. #1998-11, Nov. 1998, as replaced by Ord. #2008-07, April 2008)

12-202. Modifications. Whenever in the ICC Plumbing Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Plumbing Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (1984 Code, § 4-202, as replaced by Ord. #2008-07, April 2008)

12-203. Available in recorder's office. One (1) copy of the ICC Plumbing Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (1984 Code, § 4-203, as amended by Ord. #1991-17, Dec. 1991, as replaced by Ord. #2008-07, April 2008)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Plumbing Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day

¹Municipal 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 are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

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of violation thereof shall be deemed a separate offense. (1984 Code, § 4-204, as replaced by Ord. #2008-07, April 2008)

CHAPTER 3

(as repealed by Ord. #2008-7, April 2007)

CHAPTER 4

GAS CODE¹

SECTION

- 12-401. Gas code adopted.
- 12-402. Modifications.
- 12-403. Available in recorder's office.
- 12-404. Violations.
- 12-405. [Deleted.]

12-401. Gas code adopted. The 2006 International Gas Code² ("ICC Gas Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (1984 Code, § 4-401, as amended by Ord. #1991-17, Dec. 1991, modified; Ord. #1997-8, § 1(c), July 1997; and Ord. #1998-11, Nov. 1998, as repealed and replaced by Ord. #2008-7, April 2008)

12-402. Modifications. Whenever in the ICC Gas Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Gas Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (1984 Code, § 4-402, as amended by Ord. #1991-17, Dec. 1991, as repealed and replaced by Ord. #2008-7, April 2008)

12-403. Available in recorder's office. One (1) copy of the ICC Gas Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (1984 Code, § 4-403, as repealed and replaced by Ord. #2008-7, April 2008)

12-404. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Gas Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (1984 Code, § 4-404, as repealed and replaced by Ord. #2008-7, April 2008)

¹Municipal code reference

Gas system administration: title 19, chapter 2.

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

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12-405. [Deleted.] (1984 Code, § 4-405, as deleted by Ord. #2008-7, April 2008)

CHAPTER 5

(as repealed by Ord. #2008-7, April 2008)

CHAPTER 6

MECHANICAL CODE¹

SECTION

12-601. Mechanical code adopted.

12-602. Modifications.

12-603. Available in recorder's office.

12-604. Violations.

12-601. Mechanical code adopted. The 2006 International Mechanical Code² ("ICC Mechanical Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (1984 Code, § 4-601, as amended by Ord. #1991-17, Dec. 1991, modified; Ord. 1997-8, § 1(e), July 1997; and Ord. #1998-11, Nov. 1998, as repealed and replaced by Ord. #2008-7, April 2008)

12-602. Modifications. Whenever in the ICC Mechanical Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Mechanical Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (1984 Code, § 4-602, as repealed and replaced by Ord. #2008-7, April 2008)

12-603. Available in recorder's office. One (1) copy of the ICC Mechanical Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (1984 Code, § 4-603, as amended by Ord. #1991-17, Dec. 1991, as repealed and replaced by Ord. #2008-7, April 2008)

12-604. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Mechanical Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (1984 Code, § 4-604, as repealed and replaced by Ord. #2008-7, April 2008)

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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

CHAPTER 7

(as repealed by Ord. #2008-7, April 2008)

CHAPTER 8

(as repealed by Ord. #2008-7, April 2008)

CHAPTER 9

EXISTING BUILDINGS CODE¹

SECTION

12-901. Existing buildings code adopted.

12-902. Modifications.

12-903. Available in recorder's office.

12-904. Violations.

12-901. Existing buildings code adopted. The 2006 International Existing Buildings Code² ("ICC Existing Buildings Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (Ord. #1991-17, Dec. 1991, modified; as amended by Ord. #1997-8, § 1(f), July 1997; and Ord. #1998-11, Nov. 1998, as repealed and replaced by Ord. #2008-07, April 2008)

12-902. Modifications. Whenever in the ICC Existing Buildings Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Existing Buildings Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (Ord. #1991-17, Dec. 1991, as repealed and replaced by Ord. #2008-07, April 2008)

12-903. Available in recorder's office. One (1) copy of the ICC Existing Buildings Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (Ord. #1991-17, Dec. 1991, as repealed and replaced by Ord. #2008-07, April 2008)

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Existing Buildings Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (Ord.

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

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

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#1991-17, Dec. 1991, as amended by Ord. #1997-8, § 1(g), July 1997, as repealed and replaced by Ord. #2008-07, April 2008)

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CHAPTER 10

(as repealed by Ord. #2008-07, April 2008)

Change 9, August 11, 2008

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CHAPTER 11

(as repealed by Ord. #2008-07, April 2008)

CHAPTER 12

RESIDENTIAL CODE

SECTION

- 12-1201. Residential code adopted.
- 12-1202. Modifications.
- 12-1203. Available in recorder's office.
- 12-1204. Violations.

12-1201. Residential code adopted. The 2006 International Residential Code¹ ("ICC Residential Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (as added by Ord. #2008-7, April 2008)

12-1202. Modifications. Whenever in the ICC Residential Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Residential Code that official shall be the codes and building inspector so employed and designated as such by the municipality from time-to-time. (as added by Ord. #2008-7, April 2008)

12-1203. Available in recorder's office. One (1) copy of the ICC Residential Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (as added by Ord. #2008-7, April 2008)

12-1204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Residential Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (as added by Ord. #2008-7, April 2008)

¹Copies of this code are available form the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

CHAPTER 13

PROPERTY MAINTENANCE CODE

SECTION

12-1301. Property maintenance code adopted.

12-1302. Modifications.

12-1303. Available in recorder's office.

12-1304. Violations.

12-1301. Property maintenance code adopted. The 2006 International Property Maintenance Code¹ ("ICC Property Maintenance Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (as added by Ord. #2008-7, April 2008)

12-1302. Modifications. Whenever in the ICC Property Maintenance Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Property Maintenance Code that official shall be the codes and building code inspector so employed and designated as such by the municipality from time-to-time. (as added by Ord. #2008-7, April 2008)

12-1303. Available in recorder's office. One (1) copy of the ICC Property Maintenance Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (as added by Ord. #2008-7, April 2008)

12-1304. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Property Maintenance Codes and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (as added by Ord. #2008-7, April 2008)

¹Copies of this code are available form the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

CHAPTER 14

ENERGY CONSERVATION CODE

SECTION

12-1401. Energy conservation code adopted.

12-1402. Modifications.

12-1403. Available in recorder's office.

12-1404. Violations.

12-1401. Energy conservation code adopted. The 2006 International Energy Conservation Code¹ ("ICC Energy Conservation Code") is adopted and incorporated by reference for and in effect within the municipality and as a part of the Waverly Municipal Code. (as added by Ord. #2008-7, April 2008)

12-1402. Modifications. Whenever in the ICC Energy Conservation Code reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC Energy Conservation Code that official shall be the codes and building code inspector so employed and designated as such by the municipality from time-to-time. (as added by Ord. #2008-7, April 2008)

12-1403. Available in recorder's office. One (1) copy of the ICC Energy Conservation Code shall be on continuous file in the office of the codes and building inspector of the municipality and shall be available for use and inspection of the public during regular business hours. (as added by Ord. #2008-7, April 2008)

12-1404. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the ICC Energy Conservation Code and upon conviction shall be punished by a penalty not to exceed fifty dollars (\$50.00) and each day of violation thereof shall be deemed a separate offense. (as added by Ord. #2008-7, April 2008)

¹Copies of this code are available form the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-108. Open burning.

13-101. Health officer. The "health officer" shall be such city, county or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the City of Waverly. (1984 Code, § 8-401)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes or gases as to be detrimental to or to endanger the health, comfort and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1984 Code, § 8-405)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to prevent the breeding of mosquitoes. (1984 Code, § 8-406)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(11).

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1984 Code, § 8-407)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1984 Code, § 8-408)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1984 Code, § 8-409)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the city as provided for in the building code. (1984 Code, § 8-404)

13-108. Open burning. (1) It shall be unlawful to light, ignite, set or otherwise start any fire or place any hot ashes, cinders or smoldering coals, or suffer, allow or permit the same to be done, on any public or private property within the corporate limits unless such fire is started or such materials are placed within a receptacle, structure, edifice, device or facility that will prevent escape thereof.

(2) It shall be unlawful to fail or refuse to take all reasonable and necessary steps and precautions to extinguish or otherwise terminate and abate any open fire which has originated through any cause whatsoever upon any premises owned, occupied or under the control of any person, firm or corporation or upon such premises or property where such person, firm or corporation is carrying out any operation or activity.

(3) Nothing herein shall prohibit the starting of a fire under the limitations as stated for the following purposes:

(a) For the cooking of food, including barbecues, grills and open fireplaces, provided such fires are fully contained as provided in section 1 hereof and fueled to prevent escape.

(b) For ceremonial or recreational purposes, provided adequate reasonable measures are taken to prevent the escape thereof and provision is made contemporaneously therewith for the expeditious extinguishment thereof.

(c) For the prevention, elimination or reduction of the spread of an existing fire at the direction of responsible fire control agencies.

(d) For the purpose of training fire department personnel.

(e) For the purpose of elimination of felled trees, limbs, brush, leaves and other vegetation by domestic householders, but specifically excluding therefrom domestic household garbage or waste products; provided adequate reasonable measures are taken to prevent the escape thereof and provision is made contemporaneously therewith for the expeditious extinguishment thereof; and, provided further, that no such burning shall occur within 100 feet of a structure situated on the property of another unless permission is specifically obtained from the owner or owners thereof.

(f) For the purpose of elimination of the vegetation growing upon any tract of land incidental to the clearing thereof for agriculture uses, forestry uses or management, game management or development; provided adequate reasonable measures are taken to prevent the escape thereof and provision is made contemporaneously therewith for the expeditious extinguishment thereof; and, provided further, that no such burning shall occur within 100 feet of a structure situated on the property of another unless permission is specifically obtained from the owner or owners thereof.

(4) Notwithstanding any exception provided in section 3 hereof, any person starting a fire for any such purpose thereby excepted shall not be relieved from the responsibility and liability for the escape of any such fire so started which causes damage or injury to any other person or property.

(5) The penalty for violation of this section shall be a fine of \$50. A violation occurring more than three (3) hours subsequent to a former violation shall be deemed a separate offense. (Ord. #1995-5, §§ 1--5, May 1995)

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. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of nine (9) members; two of these shall be the mayor and an aldermen selected by the board of mayor and aldermen; 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 three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one, two, and three years respectively so that the term of one member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1984 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions and duties in accordance with Tennessee Code Annotated, title 13. (1984 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1984 Code, § 11-103)

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 Waverly shall be governed by Ordinance Number 1987-4, titled "Zoning Ordinance, Waverly, Tennessee," and any amendments thereto.¹

¹Ordinance No. 1987-4, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

- 14-301. Definitions
- 14-302. Scope of application.
- 14-303. Basis for establishing the areas of special flood hazard.
- 14-304. Requirement for development permit.
- 14-305. Compliance.
- 14-306. Abrogation and greater restrictions.
- 14-307. Interpretation.
- 14-308. Warning and disclaimer of liability.
- 14-309. Penalties for violation.
- 14-310. Permit procedures.
- 14-311. Provisions for flood hazard reduction.
- 14-312. Variance procedures.

14-301. Definitions. Unless specifically otherwise defined, herein words or phrases used shall be interpreted to give them meaning they have in common usage and to assure the most reasonable application is given for the stated purposes and objectives of these regulations. Specific defined terms for the purposes hereof are as follows:

- (1) "Accessory structure" means a subordinate structure to a principal structure on the same lot which conforms to the following:
 - (a) Only used for parking of vehicles and storage;
 - (b) Designed to have low flood damage potential;
 - (c) Constructed and placed on the building site so as to offer minimum resistance to flow of flood waters;
 - (d) Firmly anchored to prevent flotation, collapse, and lateral movement which otherwise may result in damage to other structures; and
 - (e) Utilities and service facilities thereto, such as electrical and heating equipment, is elevated or otherwise protected from intrusion of flood waters.
- (2) "Act" means the statutes authorizing the National Flood Insurance Program as codified in 42 United States Code.
- (3) "Addition" when used in reference to existing building means any walled and roofed expansion to the perimeter or height of a building.
- (4) "Appeal" means a request for a review of the building inspector's interpretation of any provision of these regulations or a request for a permitted or authorized variance therefrom.
- (5) "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map ("FIRM") of the municipality with one percent (1%) or greater annual chance of flooding to an average depth of one to

three feet (1'-3') where a clearly defined channel does not exist; where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(6) "Area of special flood related erosion hazard" is land within the jurisdiction of the municipality which is most likely to be subject to severe flood related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood related erosion hazard area in preparation for publication of the FIRM, Zone E, may be further refined.

(7) "Area of special flood hazard" see "special flood hazard area."

(8) "Base flood" means a flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

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

(10) "Building" see "structure."

(11) "Building inspector" means that person designated as the administrator of regulatory codes and land uses enforcement from time to time by the municipality.

(12) "Development" means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

(17) "Existing construction" means any structure for which the start of construction commenced before the effective date of the initial or original flood plain management code, regulations or ordinances adopted for the municipality and which is the basis for the participation in the NFIP.

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed including, at a minimum, the installation of utilities, the construction of streets, final site grading or pouring of concrete pads completed before the effective date of the first flood plain management code or ordinance adopted by the municipality as a basis for participation in the NFIP.

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

(20) "Expansion to an existing manufactured home park or subdivision" means preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed and including installation of utilities, construction of streets, and either final site grading or pouring of concrete pads.

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) Overflow of inland waters; and/or

(b) Unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of a base flood.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide or mudflow or flood related erosion hazards.

(24) "Flood Hazard Boundary Map" or "FHBM" means an official map of the municipality and its designated planning region issued by FEMA where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map" or "FIRM" means an official map of the municipality and its planning region issued by FEMA delineating the areas of special flood hazard or the risk premium zones applicable to the municipality.

(26) "Flood insurance study" is the official report provided by FEMA evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

(28) "Flood plain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the

extent of the area within the municipality subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(31) "Flood related erosion" means the collapse or subsidence of land along the shore of a body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "Flood related erosion area" or "flood related erosion prone area" means a land area adjoining the shore of a body of water which due to the composition of the shoreline or bank and high water levels or wind-driven currents is likely to suffer flood related erosion damage.

(33) "Flood related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood related erosion damage, including but not limited to emergency preparedness plans, flood related erosion control works and flood plain management regulations.

(34) "Floodway" means the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(35) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(36) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

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

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

(a) Listed individually in the National Register of Historic Places as maintained by the U.S. Department of Interior (the "National

Register") or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee Inventory of Historic Places determined as eligible by Tennessee's historic preservation program which has been approved by the Secretary of the Interior (the "Tennessee Program"); or

(d) Individually listed by the municipality on its inventory of historic places and determined as eligible as an historic preservation program certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(39) "Levee" means a man-made structure, usually as an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(40) "Levee system" means a flood protection system which consists of levees and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(41) "Lowest floor" means the lowest enclosed area of a building including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of these regulations.

(42) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. Manufactured home does not include a recreational vehicle.

(43) "Manufactured home park" or "manufactured home subdivision" means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

(44) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for the municipality issued by FEMA.

(45) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For the purposes of these regulations the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on the FIRM.

(46) "Municipality" means the City of Waverly, Tennessee, a municipal corporation and body politic existing under the laws of the State of Tennessee.

(47) "National Geodetic Vertical Datum" or "NGVD" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the flood plain.

(48) "New construction" means any structure for which the start of construction commenced on or after the effective date of the initial flood plain management regulations of the municipality and includes any subsequent improvements to such structure.

(49) "New manufactured home park" or "new manufactured home subdivision" means a permitted land use development for use for manufactured homes and for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these regulations or the effective date of the initial flood plain management regulations of the municipality and any subsequent improvements to such development and any structure therein.

(50) "North American Vertical Datum" or "NAVD" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the flood plain.

(51) "100-year flood" see "base flood."

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

(53) "Reasonably safe from flooding" means a condition of land in an area where base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

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

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(55) "Regulatory floodway" means the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

(57) "Special flood hazard area" is the land in the flood plain within the municipality subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(58) "Special hazard area" means an area having special flood, mudslide, mudflow and/or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(59) "Start of construction" includes substantial improvement and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(60) "State coordinating agency" is the Tennessee Department of Economic and Community Development Local Planning Assistance Office, as designated by the governor at the request of FEMA to assist in the implementation of the NFIP.

(61) "Structure" means a walled and roofed building or manufactured home or a gas or liquid storage tank which is principally above ground.

(62) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(63) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the initial improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring. The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(ii) Any alteration of a historic structure; provided that the alteration will not preclude continued designation as a historic structure.

(64) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(65) "Variance" is a grant of relief from the requirements of these regulations.

(66) "Violation" means the failure of a structure or other development to be fully compliant with municipal flood plain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in these regulations is presumed to be in violation until such time as that documentation is provided.

(67) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the flood plains of riverine areas. (as added by Ord. #2009-8, June 2009)

14-302. Scope of application. These regulations shall govern land uses by owners and occupiers thereof in all areas within the municipality. (as added by Ord. #2009-8, June 2009)

14-303. Basis for establishing the areas of special flood hazard. The areas of special flood hazard are those geographical areas in the municipality (community no. 470095) as identified by FEMA, and in its Flood Insurance Study (FIS) 47085CVOOOA and Flood Insurance Rate Map (FIRM), community panel numbers 0050, 0153, 0154, 0156, 0157, 0158, 0159, 0176, 0155, 0177, 0179, 0178, 0190, 0170, 0165, and 0150, along with all supporting technical data, which are adopted by reference and declared to be a part of these regulations. A copy thereof shall be available for inspection by any interested person during normal business hours in the office of the building inspector. (as added by Ord. #2009-8, June 2009)

14-304. Requirement for development permit. No person shall commence any land use development activities before obtaining from the building inspector a development permit issued in conformity with these regulations. (as added by Ord. #2009-8, June 2009)

14-305. Compliance. No person shall locate, extend, convert or structurally alter land, structures or otherwise use the same without fully complying with the terms of these and other applicable municipal regulations. (as added by Ord. #2009-8, June 2009)

14-306. Abrogation and greater restrictions. Nothing contained herein is intended to repeal, abrogate, or impair any existing easement, covenant or deed restriction applicable to any parcel of land. However, where these regulations conflict or overlap with another regulatory or restrictive land use instrument then whichever imposes the more stringent restriction shall prevail. (as added by Ord. #2009-8, June 2009)

14-307. Interpretation. In the interpretation and application of these regulations all provisions shall be:

- (1) Considered minimum requirements;
- (2) Liberally construed in favor of the municipality; and
- (3) Deemed neither to limit nor repeal any other powers granted to the municipality pursuant to Tennessee law. (as added by Ord. #2009-8, June 2009)

14-308. Warning and disclaimer of liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations and the adoption, enforcement or application of the same does not imply that there exists or may exist lands in the municipality which are outside of the areas of special flood or that hazards or uses permitted within areas of special flood will be free from flooding or flood damages. These regulations and the application and enforcement hereof shall not be deemed to create liability on the part of the municipality or any officer or employee thereof for any flood damages which may result from reliance on the same or any administrative decision lawfully made hereunder. (as added by Ord. #2009-8, June 2009)

14-309. Penalties for violation. A person who violates any provision of these regulations or who fails to comply with any of the requirements hereof, including violation of conditions and safeguards established in connection with grants of variance, on being found guilty thereof, shall be fined fifty dollars (\$50.00) for each such offense and in addition shall pay all costs assessed thereon. Each day that a violation continues shall be deemed a separate offense.

Nothing herein contained shall prevent the municipality from taking such other lawful action at law or in equity it deems appropriate to prevent or remedy any violation. (as added by Ord. #2009-8, June 2009)

14-310. Permit procedures. Application for a development permit as required by these regulations shall be made to the building inspector prior to commencement of any development activities. The development permit application shall be on forms furnished by the building inspector and shall include, but not be necessarily limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(1) Application stage. (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under these regulations.

(b) Elevation in relation to mean sea level to which any nonresidential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under these regulations.

(c) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in these regulations.

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

(2) Construction stage. (a) Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The building inspector shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building the certification shall be prepared by or under the direct supervision of a Tennessee registered professional engineer or architect and certified by same.

(b) Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The building inspector shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building the certification shall be prepared by or under the direct supervision of a Tennessee registered professional engineer or architect and certified by same.

(c) For all new construction and substantial improvements the permit holder shall provide to the building inspector an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

(d) Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building inspector shall review the certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the building inspector. Duties of the building inspector include, but are not be limited to, the following:

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

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings.

(g) Record the actual elevation in relation to mean sea level or the highest adjacent grade where applicable to new and substantially improved buildings which have been floodproofed in accordance with these regulations.

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect in accordance with these regulations.

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the

location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in these regulations.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A of the FIRM meet the requirements of these regulations.

(k) Maintain all records pertaining to the provisions of these regulations in the office of the building inspector which shall be open for public inspection. Permits issued under the provisions of these regulations shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2009-8, June 2009)

14-311. Provisions for flood hazard reduction. (1) General standards. In all special flood hazard areas, the following provisions are required:

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

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of these regulations shall meet the requirements of new construction;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of these regulations shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of these regulations;

(m) When proposed new construction and substantial improvements are partially located in an area of special hazard the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in these regulations are required:

(a) Residential structures. (i) In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of these regulations.

(ii) Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the building inspector shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of

exterior walls shall be provided in accordance with the standards of these regulations.

(b) Nonresidential structures. (i) In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, base flood elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards hereof.

(ii) In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards hereof.

(iii) Nonresidential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the building inspector as set forth in these regulations.

(c) Enclosures. (i) All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(ii) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:

- (A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
- (B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;
- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.
- (iii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- (iv) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of flood waters and all such partitions shall comply with the provisions of these regulations.
- (d) Standards for manufactured homes and recreational vehicles.
 - (i) All manufactured homes placed, or substantially improved, on:
 - (A) Individual lots or parcels;
 - (B) Expansions to existing manufactured home parks or subdivisions; or
 - (C) New or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation;
 - (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade.
 - (iii) Any manufactured home, which has incurred substantial damage as the result of a flood, must meet the standards of these regulations.
 - (iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement;
 - (v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals.

(i) Subdivisions and other proposed new developments including manufactured home parks shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(ii) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

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

(iv) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(v) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks or subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in these regulations, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or

new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the municipality. A Tennessee registered professional engineer must provide supporting technical data using the same methodologies as in the effective flood insurance study for the municipality and certification thereof;

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of these regulations.

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in these regulations where streams exist with base flood data, provided but where no floodway has been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within special flood hazard areas unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot (1') at any point within the municipality. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles;

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of these regulations.

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in these regulations, where streams exist, but no base flood data has been provided, and where a floodway has not been delineated, the following provisions shall apply:

(a) The building inspector shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of these regulations;

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks or subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data;

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade. All applicable data including elevations or flood proofing certifications shall be recorded as set forth in these regulations. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of these regulations;

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the municipality. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles;

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of these regulations. Within approximate A Zones, these regulations require the provisions of these regulations, dealing with the alteration or relocation of a watercourse, that the watercourse carrying capacities are maintained and that manufactured home provisions are also complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in these regulations are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those otherwise set forth in herein, also:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of these regulations;

(b) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of these regulations and shall provide such certification to the building inspector and as required by these regulations;

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in these regulations are areas of the 100-year flood plain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) provisions of these regulations.

(8) Standards for unmapped streams. Located within the municipality are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality;

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with these regulations. (as added by Ord. #2009-8, June 2009)

14-312. Variance procedures. (1) Board of zoning appeals.

(a) Authority. The Board of Zoning Appeals (BZA) of the municipality shall hear and decide appeals and requests for variances from the requirements of these regulations.

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

(c) Appeals: how taken. An appeal to the BZA may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of these regulations. Such appeal shall be taken by filing with the BZA a notice of appeal specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party a fee of five hundred dollars (\$500.00) for the cost of publishing a notice of such hearings and other administrative requirements shall be paid by the appellant. The building inspector shall transmit to the BZA all papers constituting the record upon which the appeal is taken. The BZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than sixty (60) days from the date of the hearing. At the hearing any person or party may appear and be heard in person, by agent and by attorney.

(d) Powers. The BZA shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcement of any provisions of these regulations.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The BZA shall hear and decide appeals and requests for variances from the requirements of these regulations.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined herein upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of these regulations to preserve the historic character and design of the structure.

(C) In passing upon such applications the BZA shall consider all technical evaluations, all relevant factors, all standards specified in these regulations and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the municipality;

(5) The necessity of the facility to a waterfront location in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of these regulations, the BZA may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of these regulations.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary considering the flood hazard and the factors listed in these regulations.

(b) Variances shall only be issued upon a showing of good and sufficient cause; determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other local laws or ordinances.

(c) An applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance as high as twenty-five dollars (\$25.00) for each one hundred dollars (\$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The building inspector shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #2009-8, June 2009)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. REGULATIONS ON TRUCKS USING CITY STREETS.
9. [REPEALED.]

CHAPTER 1

MISCELLANEOUS²

SECTION

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

¹Municipal code reference

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

²State law references

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

- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Passing.
- 15-119. Damaging pavements.
- 15-120. Bicycle riders, etc.
- 15-121. Applicability of certain parts of this chapter to private parking ways and areas.

15-101. Motor vehicle and motor vehicle operator requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9, or to operate a motor vehicle in violation of the Tennessee Motor Vehicle Operator's and Chauffeurs license law. (1984 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1984 Code, § 9-112, § 2)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1984 Code, § 9-104, § 1)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

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

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

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1984 Code, § 9-104, § 2)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1984 Code, § 9-104, § 3)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1984 Code, § 9-104, § 4)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1984 Code, § 9-113, § 1)

15-108. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1984 Code, § 9-113, § 2)

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles

¹Municipal code references

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

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

an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1984 Code, § 9-113, § 3)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1984 Code, § 9-113, § 4)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1984 Code, § 9-106)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1984 Code, § 9-107)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1984 Code, § 9-108, § 1)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1984 Code, § 9-108, § 2)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1984 Code, § 9-105, § 2)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1984 Code, § 9-109)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1984 Code, § 9-110)

15-118. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1984 Code, § 9-105, § 1)

15-119. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1984 Code, § 9-112, § 1)

15-120. Bicycle riders, etc. (1) Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor scooter.

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

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

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

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

(6) All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

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

(8) Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1984 Code, § 9-111)

15-121. Applicability of certain parts of this chapter to private parking ways and areas. Notwithstanding that the same may be upon private property, it is hereby declared to be the intent of the city and it is hereby declared to be unlawful for any person to violate the provisions of §§ 15-113, 15-114, 15-115, or 15-117, of The Waverly Municipal Code, upon the public streets, roads, alleyways, and on any private property, shopping center parking lot, hotel or motel parking lot, housing projects or apartment house parking lot, located within the City of Waverly, Tennessee; it being the intent of the board of mayor and aldermen of the City of Waverly, Tennessee to make the aforesaid sections

subject to regulation by the city whether on public property or committed upon private property and any person found guilty of a violation thereof shall not have as a defense that the same occurred upon any private area or property. (1984 Code, § 9-114)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1984 Code, § 9-102, § 1)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1984 Code, § 9-102, § 2)

¹Municipal code reference

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

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1984 Code, § 9-102, § 3)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1984 Code, § 9-102, § 4)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
15-302. At intersections.
15-303. In school zones.
15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1984 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting street. (1984 Code, § 9-202)

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

When the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1984 Code, § 9-203)

15-304. 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 any posted speed limit when such speed limit has been posted by authority of the city. (1984 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1984 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1984 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1984 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1984 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1984 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

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

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge of 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. (1984 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1984 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1984 Code, § 9-403)

¹Municipal code reference

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

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

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1984 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1984 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1984 Code, § 9-406)

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

- (1) Green alone, or "Go":
 - (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
 - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
 - (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

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

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

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1984 Code, § 9-407)

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

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1984 Code, § 9-408)

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

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

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1984 Code, § 9-409)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1984 Code, § 9-410)

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

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Parking time limits.
- 15-607. Time-limit restricted parking zones.
- 15-608. Designation of parking spaces.
- 15-609. Enforcement.
- 15-610. Presumption with respect to illegal parking.
- 15-611. Violations.
- 15-612. Penalty.

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

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

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire district¹ between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1984 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall

¹Municipal code reference
Fire district: § 7-101.

angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1984 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1984 Code, § 9-503)

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

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen (15) feet thereof;
- (4) Within fifteen (15) feet of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty (50) feet of a railroad crossing;
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (10) Upon any bridge;
- (11) Alongside any curb painted yellow or red by the city. (1984 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1984 Code, § 9-505)

15-606. Parking time limits. In the absence of an official sign to the contrary which has been installed by the city, between the hours of 8:00 A.M., prevailing Central Time, and 6:00 P.M., prevailing Central Time, on all days except Sundays and holidays as recognized by the City of Waverly for personnel purposes, parking or standing a vehicle in a designated parking space shall be unlawful for any one continuous period of time in excess of two (2) hours. To cause a break in such continuous period of time the vehicle must be completely removed to a separate and distinct designated parking space. (1984 Code, § 9-508)

15-607. Time-limit restricted parking zones. The following named and described areas, streets, or portions of streets, and such other areas, streets, or

portions of streets as may hereafter be included in this section by amendment hereto, lying within the corporate limits of the City of Waverly, Tennessee, shall constitute a restricted time-limit parking zone, namely:

(1) On either side of South Church Street from its intersection by Duffle Street southerly to its intersection with East Main Street.

(2) On either side of East Main Street from its intersection by Weems Place westerly to its intersection with South Church Street.

(3) On either side of South Church Street from its intersection by Fort Hill Road northerly to its intersection with Main Street.

(4) On either side of Thompson Avenue and South Courthouse Square from the west side of the Humphreys County Courthouse Annex Building easterly to its intersection with South Church Street.

(5) On either side of West Courthouse Square.

(6) On either side of West Main Street from its intersection by Maple Avenue easterly to its intersection with South Church Street. (1984 Code, § 9-506)

15-608. Designation of parking spaces. The Chief of Police of the City of Waverly is hereby directed and authorized to mark off individual parking spaces in the parking zones designated and described in § 15-607 of this code and in such other zones as may be hereafter established, said parking spaces to be designated by lines painted or durably marked on the curbing or surface of the street or pavement. At each space so marked off it shall be unlawful to park any vehicle in any such a way that said vehicle shall not be entirely situated within the limits of the space so designated. (1984 Code, § 9-507)

15-609. Enforcement. It shall be the duty of the police department of the City of Waverly, Tennessee to enforce the provisions of this code as the same relates to parking regulations and police officers may use the commonly accepted method of tire marking to determine whether or not a vehicle has been located within a designated space in excess of the maximum allowed continuous time. (1984 Code, § 9-509)

15-610. Presumption with respect to illegal parking. When any vehicle is found parked in violation of any provision of this chapter there shall be an inference that the registered owner of the vehicle is responsible for such illegal parking. (1984 Code, § 9-510)

15-611. Violations. It shall be unlawful and a violation of this chapter for any person:

(1) To cause, allow, permit or suffer any vehicle registered in the name of, or operated by such person to be parked overtime, or beyond the period of legal parking time established in this chapter, or in a manner prohibited by this chapter.

(2) To permit any vehicle to remain or be placed in any one parking space within a Time-Limit Restricted Parking Zone as established in § 15-607 beyond a single continuous period of two (2) hours.

(3) To park any vehicle across any line or marking of a parking space or in such position that the vehicle shall not be entirely within the area designated by the established lines or markings. (1984 Code, § 9-511)

15-612. Penalty. Any person who shall violate or fail to comply with any of the provisions of this chapter, or who shall counsel, aid or abet any such violation, shall be deemed guilty of an offense and shall be punished by a civil penalty of up to fifty dollars (\$50.00) for each separate offense. (1984 Code, § 9-512, modified)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations; posting of bail; deposit of license in lieu of bail.

15-702. Failure to obey citation.

15-703. Illegal parking.

15-701. Issuance of traffic citations;¹ posting of bail; deposit of license in lieu of bail. (1) When a person violates any ordinance of the City of Waverly governing the operation of motor vehicles, it shall not be necessary for the arresting officer to swear out a warrant for said offense, but the officer may, in his discretion, issue a citation to such alleged offender showing the offense charged, the name, address and operator's license number of the alleged offender, the license number of the motor vehicle involved, the date and time of the alleged offense, and any such other pertinent information as may be necessary or required, and stating therein the date, time and place where such offender shall be required to appear in a court and the court to which such alleged offender shall appear.

(2) As a condition for the officer issuing the citation in lieu of the arrest of the alleged offender and the obtaining of a warrant therefor the person to whom such citation is given must sign an agreement to appear on the date and at the time and place indicated in court and thereby waiving the issuance and service of a warrant upon such alleged offender.

(3) If the alleged offender refuses to sign such an agreement to appear in court and to waive the issuance and service upon him of a warrant then the officer shall be under a duty to arrest such alleged offender for the offense committed in his presence and to forthwith bring such alleged offender before proper authority to procure a warrant and to serve the same upon the offender and otherwise process him as required by law and the authority issuing the warrant shall take bail from the accused for his appearance in court, or in lieu thereof commit the alleged offender to jail.

(4) As authorized in Tennessee Code Annotated, § 55-7-401, any person who is given a traffic citation or is arrested on a warrant issued by the city court and who is lawfully in possession of a chauffeur's or operator's license therefor issued to him by the Tennessee Department of Safety, or under the Driver Licensing Laws of any other state or territory or the District of Columbia, and who is charged with a violation of any municipal ordinance governing the operation of motor vehicles within the City of Waverly, Tennessee, shall have the option of depositing his chauffeur's or operator's license with the officer or

¹State law reference

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

with the court demanding bail in lieu of any other security required for his appearance in court to answer the charge made. Whenever any person depositing his chauffeur's or operator's license as herein provided, either the officer or the court demanding bail and to whom such license is deposited, shall issue said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety. If the alleged offender fails to appear and answer to the charge filed against him then the clerk or judge of the city court shall thereafter forward to the Tennessee Department of Safety the license of such alleged offender as deposited in lieu of bail which shall be otherwise disposed of as provided by law. (1984 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1984 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within twenty-four (24) hours and at a place specified in the citation.

If the offense is a parking meter parking violation, the offender may, within twenty-four (24) hours, have the charge against him disposed of by paying to the city recorder a fine of fifty cents (\$.50) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after twenty-four (24) hours, but before a warrant for his arrest is issued, his fine shall be three dollars (\$3.00). For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be three dollars (\$3.00) within twenty-four (24) hours and five dollars (\$5.00) thereafter. (1984 Code, § 9-603)

CHAPTER 8

REGULATIONS ON TRUCKS USING CITY STREETS

SECTION

- 15-801. Definitions.
- 15-802. Application of regulation.
- 15-803. Exceptions.
- 15-804. Truck routes designated.
- 15-805. Penalties.
- 15-806. Erection of signs.

15-801. Definitions. For the purpose hereof the following terms, phrases and words shall have the meanings as follows:

- (1) "City" is the City of Waverly, Tennessee.
- (2) "Corporate limits" are the corporate boundary limits of the city as duly established from time to time.
- (3) "Person" is any natural person, firm, partnership, association, corporation, company or other organization of any kind.
- (4) "Truck" is any motor propelled vehicle designed or operated for the transportation of persons or property having more than four (4) wheels and regardless of size or weight.
- (5) "Truck route" is a way over certain streets or highways as designated herein and over and along which trucks coming into and going out of the city must operate. (Ord. #1991-15, Oct. 1991)

15-802. Application of regulation. Except as herein provided all trucks within the city shall be operated only over and along the truck routes as herein established. (Ord. #1991-15, Oct. 1991)

15-803. Exceptions. Operation of a truck is not prohibited on any city street:

- (1) If such operation is necessary to conduct business by way of making local deliveries or purchases or to obtain repairs to such truck at a destination point; provided that the designated truck routes shall have been used by the operator until reaching the intersection nearest the destination point.
- (2) If the truck is designated and recognized as an authorized emergency vehicle.
- (3) If the truck is owned or operated by the city, by the County of Humphreys, or by any other governmental unit or agency, or by any public utility.
- (4) If the truck has its base of operations and/or is permanently housed or garaged within the corporate limits.

(5) If the truck has been officially detoured through the city by lawful authority so long as it is being operated upon the street over which such detour is directed. (Ord. #1991-15, Oct. 1991)

15-804. Truck routes designated. That portion of U.S. Highway 70 (State Route 1) from the east corporate limits to the west corporate limits and that portion of State Highway 13 from the north corporate limits to the south corporate limits and all of State Highway 13 Spur from its intersection with State Highway 13 in the downtown central business district to its intersection with Cooley Avenue and along Cooley Avenue to its intersection with U.S. Highway 70 (State Route 1) are hereby designated as truck routes through the city. (Ord. #1991-15, Oct. 1991)

15-805. Penalties. Any person who shall violate any provision hereof shall, upon conviction, pay a fine of not less than \$25 nor more than \$50 as determined by the court. (Ord. #1991-15, Oct. 1991)

15-806. Erection of signs. The superintendent of public works shall erect appropriate signs as determined in conjunction with the chief of police and approved by the city manager as are reasonably necessary to inform persons of the truck routes as herein established or that a particular street is prohibited in use by trucks. The absence of any such sign shall not, however, be a defense to any prosecution for any violation hereof. Ord. #1991-15, Oct. 1991)

CHAPTER 9

[REPEALED]

This chapter was repealed by Ord. #1996-16, § 1, Nov. 1996.

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

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

16-101. Obstructing streets, alleys or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk or right of way for the purpose of storing, selling or exhibiting any goods, wares, merchandise or materials. (1984 Code, § 12-201)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen (14) feet. (1984 Code, § 12-202)

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

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

property any tree, hedge, billboard or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1984 Code, § 12-203)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1984 Code, § 12-204)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen. (1984 Code, § 12-205)

16-106. Gates or doors opening over streets, alleys or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley or sidewalk. (1984 Code, § 12-206)

16-107. Littering streets, alleys or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1984 Code, § 12-207)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1984 Code, § 12-208)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1984 Code, § 12-209)

16-110. Parades regulated. (1) It shall be unlawful for any individual, group of individuals, club, organization, group or association to hold any meeting, parade, demonstration or exhibition on the public streets or any other public property of the city without some responsible representative first securing a permit from the city manager.

(2) Any applicant for such permit shall submit a written application therefor in form as prescribed from time-to-time by the city manager. Prior to

¹Municipal code reference

Building code: title 12, chapter 1.

such application being submitted to the city manager for grant of a permit the same shall be submitted to the chief of police of the city who shall investigate the proposed activity and make a determination as to whether or not, in his opinion, the proposed activity will or will not unreasonably interfere with traffic on the public streets. If the chief of police has no objection he shall so endorse upon the application, but if he shall have objection he shall likewise endorse such objection thereon stating the reason therefor. Upon such statement or endorsement by the chief of police the same shall then be submitted to the city manager for grant or denial of the permit.

(3) A permit shall not be issued by the city manager if the proposed activity may unreasonably interfere with traffic. A permit shall not be issued unless the applicant for such permit shall agree to see to the immediate cleaning up of all litter which may be left on the streets or public property as a result of the activity.

(4) It shall be, further, unlawful for any person who shall have obtained a permit under this section to fail to clean up all litter which shall result from the activity so permitted.

(5) Any person denied a permit pursuant to this section may appeal the denial immediately to the mayor who shall consider the application de novo. A denial of the permit by the mayor may thereafter be appealed to any regular or special meeting of the board of mayor and aldermen who shall consider the application de novo and grant or deny the permit after such hearing as they may prescribe.

(6) As a condition for the granting of any permit hereunder the granting authority may prescribe, as a prerequisite for the granting of the permit, that the applicant execute a bond with good and solvent surety payable to the city conditioned that the applicant shall comply with all requirements relative to cleaning the city streets of all litter resulting from the activity for which the permit is obtained. (1984 Code § 12-210)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1984 Code, § 12-211, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead or tie any animal, or ride, push, pull or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1984 Code, § 12-212)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley or sidewalk. (1984 Code, § 12-213)

16-114. Gasoline pumps, etc., on streets, etc. Hereafter is shall be unlawful for any person, individual, firm or corporation to install, erect, or have same done, any storage tank, gasoline pump, oil container, tire rack, display or sign, or any other equipment used in connection with the filling station or garage business, or any other type of business, on any street, alley or other public property within the corporate limits of the City of Waverly, or to carry on any type of business on said public property. The individuals, firms or corporations which now have storage tanks, pumps, and other equipment installed in or on the streets, alleys, or other public property in the City of Waverly have no property right therein, and no right to sell, convey or in any manner transfer the right to use city property, and at any time hereafter when such business now in operation shall cease, or be sold, conveyed or transferred to another in any manner, such new owner or transferee shall have no right or permission to continue to use the said streets, alleys or other public property, and will be compelled to operate the business off such public property. (1984 Code, § 12-214)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fees.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Inspection.

16-201. Permit required. It shall be unlawful to make any excavation in any street, alley or public place, or to tunnel under any street, alley or public place, or connect a driveway or other entranceway from private property to any street or alley, without first obtaining a permit and otherwise complying with the provisions of this chapter. It shall further be unlawful, upon obtaining a valid permit from the city to thereafter excavate, tunnel or connect within, under or to any such street, alley or public place, in violation of the terms or conditions of such permit. This section shall not apply to any public works project conducted by the city itself. (Ord. #1988-2, Jan. 1988)

16-202. Applications. Applications for such permits shall be made to the city manager or such other person as he may designate to receive such applications. The city manager shall prescribe the form for such applications and the content thereof, at a minimum, shall state the location of the intended excavation, tunnel or connection, the size thereof, a drawing or other pictorial description thereof, the purpose thereof, the person, firm, corporation, association or others doing the actual work, the name of the person, firm, corporation, association or others for whom the work is being done and the estimated length of time that will elapse from commencement of the work until full and complete restoration. The execution of the application by the applicant shall constitute an agreement on the part of applicant that the applicant shall comply with this chapter and with all other ordinances and laws relating to the work to be done. The city manager shall act upon the application by granting

¹State law reference

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

or rejecting a permit within twenty-four (24) hours from the filing of the application. No permit shall be granted for connection of a private driveway to a street or alley where the proposed connection will be so located or so constructed as to create an unreasonable hazard to pedestrian or vehicular traffic or which shall exceed thirty-five (35) feet in width at the outer or street edge, or shall have an apron extended into the street or alley, or shall be closer than ten (10) feet to another driveway servicing the same property. (Ord. #1988-2, Jan. 1988)

16-203. Fees. For the purpose of defraying the administrative cost in connection with the taking, processing, investigating and acting upon applications for permits the applicant shall pay at the time of the filing of the application a fee in the amount of \$25 for each application. A separate application and a separate fee shall be required for every different location for a requested permit. (Ord. #1988-2, Jan. 1988)

16-204. Deposit or bond. (1) No permit shall be issued unless and until the applicant deposits with the city manager an amount determined by the city manager as necessary to cover the cost of proper restoration of the ground and the laying of any necessary pavement resulting from the work to be done under the permit. From this cash deposit the city shall deduct the expense incurred by it in restoring the street, alley or public place and the balance, if any, shall be returned to the applicant without interest.

(2) The amount of deposit shall be as a minimum in the following amounts:

(a) For surfaces with no existing pavement, \$100 up to a total area of 100 square feet plus 20 cents per square foot in excess thereof.

(b) For surfaces with existing pavement, \$150 up to a total area of 100 square feet plus 60 cents per square foot in excess thereof.

(c) In lieu of a cash deposit the applicant may file with the city manager a surety bond with good and adequate security in such form and amount as the city manager shall deem adequate to cover the costs of making proper restoration. (Ord. #1988-2, Jan. 1988)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1984 Code, § 12-105)

16-206. Restoration of streets, etc. Any permit holder making any excavation, tunnel or connection in, under, or to any street, alley or public place shall restore the same to the specifications as prescribed by the city and shall clean and remove all debris from the work site, promptly upon the completion of the work under the permit, except for the resurfacing of any street or way and which resurfacing shall be done by the city or by the permit holder if specifically approved by the city, but in all cases it shall be paid for by the permit holder. If the permit holder shall fail to perform restoration required hereunder the city manager shall give written notice to the permit holder requiring that the restoration occur within a specified period of time and if not completed within such specified period of time the same shall be performed by the city and all charges, including labor, resulting therefrom shall be fully paid to and reimbursed to the city by the permit holder. (Ord. #1988-2, Jan. 1988)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one accident, and a \$75,000 aggregate. (1984 Code, § 12-107)

16-208. Inspection. The city manager shall from time to time inspect or cause to be inspected all excavations, tunnels, connections and other work performed under any permit and shall see to the enforcement of all provisions of this chapter. No restoration work shall be commenced until notice thereof shall have been given to the city manager not less than ten (10) hours prior to the commencement of such restoration work. (Ord #1988-2, Jan. 1988)

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. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Mandatory user fees.
- 17-110. Classification of use.
- 17-111. Collection rates.
- 17-112. Discontinuance of service.
- 17-113. Penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, leaves, brush, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1984 Code, § 8-101)

17-102. Premises to be kept clean. All persons within the city 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. (1984 Code, § 8-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong,

¹Municipal code reference

Property maintenance regulations: title 13.

durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1984 Code, § 8-103)

17-104. Location of containers. Where alleys are used by the city 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 city 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 is 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. (1984 Code, § 8-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1984 Code, § 8-105)

17-106. Collection. All refuse and/or garbage 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 and in accordance with collection schedules that may be from time to time promulgated and announced by the mayor. (1984 Code, § 8-106)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1984 Code, § 8-107)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for

refuse disposal by the board of mayor and aldermen is expressly prohibited. (1984 Code, § 8-108)

17-109. Mandatory user fees. There is hereby imposed a mandatory user fee for the collection of garbage and refuse upon all households, businesses, residences, and occupiers of property within the corporate limits of the City of Waverly, Tennessee, according to the classification and rates as from time to time established by the board of mayor and aldermen of the City of Waverly, Tennessee, and such sums to be paid into the general fund of the City of Waverly, Tennessee, to defray the cost of the providing a garbage and refuse collection service of the City of Waverly, Tennessee. (1984 Code, § 8-109)

17-110. Classification of use. There shall be three classifications of use of the refuse and garbage collection service of the City of Waverly consisting of:

- (1) Residential;
- (2) Commercial; and
- (3) Excess users.

"Residential" shall be all house holds located within the City of Waverly, Tennessee. "Commercial" shall consist of all retail establishments, establishments offering services, or any other business activity within the City of Waverly for which a business license is required, except those that may be classified as "Excess User." "Excess Users" shall be those recipients of service which because of amount of use, volume of use, frequency of use, or other relevant factors the mayor shall determine that the residential or commercial rate is insufficient to provide adequate return to the city for the services rendered. Any commercial user may apply to the mayor of the City of Waverly, Tennessee, for an Use Exemption Certificate upon showing that such user shall carry on a program of self-removal of all garbage and refuse in such a manner as to otherwise be in full compliance with all removal requirements of the City of Waverly, Tennessee, and upon such terms and conditions as the mayor may require as a condition for the issuance of such Exemption Certificate. The grant or refusal of such certificate shall be in the sole and exclusive discretion of the mayor and he may consider the economic impact that such exemption may have upon the city collection system revenues and expenses. (1984 Code, § 8-110)

17-111. Collection rates. For collection of garbage and refuse as provided for and required by the City of Waverly, Tennessee, there shall be a rate charge per month payable within ten (10) days from the date of billing by the City of Waverly, Tennessee, according to the following classifications of use:

- (1) Residential rates:
 - (a) Single family homes (once per week pick-up) \$ 10.00
 - (b) Apartment houses or complexes (once per week pick-up), per apartment unit \$ 10.00

- (c) Mobile home parks (once per week pick-up),
per mobile home \$ 10.00
- (2) Commercial rates:
 - (a) With twice per week pick-up \$20.00
 - (b) With thrice per week pick-up \$30.00
 - (c) With four times per week pick-up \$40.00
 - (d) With five times per week pick-up \$50.00
 - (e) Waverly Housing Authority \$595.00
 - (f) Mobile homes parks \$40.00
 - (g) Excess user rates To be determined per § 17-110

(1984 Code, § 8-111, as amended by Ord. #1988-20, Oct. 1988; Ord. #1994-1, Jan. 1994; Ord. #1995-6, July 1995; Ord. #2003-15, May 2003; and Ord. #2011-17, June 2011)

17-112. Discontinuance of service. Any service charge or account not paid within the due date shall be considered delinquent and collection service shall immediately cease to such user and such cessation of service shall be in addition to all other rights of the City of Waverly, Tennessee, to proceed to the collection of unpaid charges. (1984 Code, § 8-112)

17-113. Penalty. Any person or entity within the corporate limits of the City of Waverly, Tennessee, who shall violate provisions of §§ 17-101 through 17-112 of the Waverly Municipal Code, shall be punished according to the general penalty provisions of this code. (1984 Code, § 8-113)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.
2. SEWAGE DISPOSAL.
3. WATER SUPPLY EMERGENCIES.
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
5. REGULATIONS OF ANIMAL AND VEGETABLES FATS, OILS, AND GREASE; SOIL; SAND; LINT; AND OTHER COMMERCIAL LAUNDRY SOLIDS; AND PETROLEUM BASED LUBRICANTS.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. Unlawful connections.
- 18-102. Application for permits.
- 18-103. Connections and meter settings.
- 18-104. Deposits, notices to discontinue service, etc.
- 18-105. Meters.
- 18-106. Relocation of meters.
- 18-107. Meter reading and billing; delinquent bills.
- 18-108. Discontinuance of service.
- 18-109. Resumption of service after discontinuance for non-payment of bills, etc.
- 18-110. Turn-on; reconnection charge.
- 18-111. Customers not to supply water to others.
- 18-112. Special service.
- 18-113. Cutoff and repairs.
- 18-114. Interruptions of service.
- 18-115. City not compelled to construct lines.
- 18-116. Garbage and refuse not to be thrown into sewers, etc.
- 18-117. Violations and penalties.
- 18-118. Fluoridation of water supply.
- 18-119. Water and sewer rates and charges.
- 18-120. Extension of services to subdivisions, etc.

¹Municipal code references

Building, utility and housing codes: title 12.

Cross connections: title 18.

Refuse disposal: title 17.

Wastewater treatment: title 18.

18-101. Unlawful connections. It shall be unlawful for any person, firm or corporation to connect water or sewer lines with the city water or sewer mains, sub-mains or laterals except in the manner hereinafter provided. (1984 Code, § 13-101)

18-102. Application for permits. Any person, firm or corporation desiring to connect with a city water or sewer main, sub-main or lateral shall first apply to the board of mayor and aldermen of the City of Waverly, Tennessee, and fill out the proper application blank for such connection. Each application shall be accompanied by the fees as fixed in this chapter. All connections to city sewer and water lines shall be made by forces of the City of Waverly, Tennessee, or by a contractor employed by the city. (1984 Code, § 13-102)

18-103. Connections and meter settings. All connections to the mains and all meter settings for use in the water connection shall be made by the city upon written application. The meter settings for the water connection shall be placed at suitable locations selected by the designated representative of the city. For such connections and meter settings the consumer or property owner at the time of making application therefor shall pay to the city the fees as set forth in this chapter. The materials used in the connection including the meter become the property of the city. (1984 Code, § 13-103)

18-104. Deposits, notices to discontinue service, etc. When the premises have been supplied with a service line to the water main or sewer main and a consumer desires a supply of water and to connect to the sewerage system the consumer shall sign an application as set forth above and shall make a cash deposit to secure payment for the water to be used and for the use of the sewerage system. The amount of the deposit where the consumer desires ordinary or usual service shall be in the amount of \$25. Where, at the time of making application for water and sewerage it is likely that the consumer will require a substantially larger quantity than is used by the average consumer the city may require a larger deposit. However, such increased deposit shall not exceed the annual minimum charge.

Deposits shall not be applied in payment of current monthly bills and such deposit shall in no wise affect the city's rights arising from non-payment of bills as provided in this chapter.

The city will refund the deposit upon written notice to discontinue and upon receipt of payment in full for water metered and for use of the sewerage system by such consumer.

The consumer or property owner shall notify the city at the time each property becomes vacant. The consumer or property owner shall be responsible for any damage to the property of the city and for all water metered and for use of the sewerage system to such property up until receipt of such vacancy notice.

The city will presume service is being rendered from the time water is turned on at the request of the consumer until the consumer or property owner gives it written notice to discontinue the service and charges will be made accordingly. (1984 Code, § 13-104, as amended by Ord. #1988-22, Oct. 1988)

18-105. Meters. At least one water meter shall be required for each dwelling, building, garage, apartment, etc., regardless of its use, and the person designated as being responsible for payment of the charges, both water and sewerage, shall be responsible to the city for all water consumed and also for the sewerage charges.

Meters and meter settings must be accessible at all times and not covered with rubbish or material of any kind. No one other than an authorized agent of the city shall be permitted to repair, adjust, remove or replace any meter or any part thereof.

The consumer shall be responsible for damage to meters and/or meter settings where such damage is caused by a change in grade of the lot or by carelessness or negligence of the consumer or his agent or employee or any member of his family. Such consumer will be billed for the actual cost of repair or replacement and such bill shall be paid within ten (10) days from the date of the mailing thereof. If such bill is not paid within ten (10) days the city may resort to the collection procedures provided in §§ 18-107 and 18-108. (1984 Code, § 13-105)

18-106. Relocation of meters. If any meter is relocated on application of and to suit the convenience of the consumer or because of a change in the grade of the lot, such relocation and setting shall be made by the city at the expense of the consumer. The bill rendered to the consumer for the expense thereof shall be paid within ten (10) days from the date of mailing such bill and if not paid within ten (10) days the city may collect the bill as provided in § 18-107. (1984 Code, § 13-106)

18-107. Meter reading and billing; delinquent bills. Meters will be read and the consumer billed jointly for the water and sewerage each month. All bills shall be payable at the city hall.

The city's meter reading agent or other properly authorized employee shall have access at all reasonable hours to the premises supplied with water, for the purpose of reading, inspecting, repairing or removing meters. When any consumer is delinquent for a period of one (1) month in the payment of his bill the city will shut off and discontinue service to the said consumer. (1984 Code, § 13-107)

18-108. Discontinuance of service. No service shall be discontinued unless the customer is given reasonable notice in advance of such impending action and the reason therefor. The customer shall also be notified of his right

to a hearing prior to such disconnection if he disputes the reason therefor and requests such hearing by the date specified in the notice. When a hearing is requested, the customer shall have the right to have a representative at such hearing and shall be entitled to testify and to present witnesses on his behalf. Also, when such hearing has been requested, the customer's service shall not be terminated until a final decision is reached by the hearing officer and the customer is notified of that decision.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1984 Code, § 13-108)

18-109. Resumption of service after discontinuance for non-payment of bills, etc. If service has been discontinued for non-payment of bills or for any violation of this chapter, service to such consumer will not be resumed by the city until the unpaid bill, or bills have been paid in full and/or the violation of any of the provisions of this chapter has ceased or been eliminated. (1984 Code, § 13-109)

18-110. Turn-on; reconnection charge. Water shall not be turned into any water line for any purpose by anyone except an authorized employee of the city. Whenever water and/or sewer service has been discontinued for non-payment of any bill or because of a violation of any of the provisions of this chapter a charge of ten dollars (\$10.00) payable in advance shall be made to cover the cost of turning the water on again. Provided, however, in the event reconnection is requested by a consumer and approved by the city to be performed after regular business hours, the charge for such reconnection shall be in the amount of \$20 payable in advance. (1984 Code, § 13-110, as amended by Ord. #1988-22, Oct. 1988)

18-111. Consumers not to supply water to others. Consumers shall not supply water or allow water to be carried or run through a hose or pipe to any premises other than that described in the application agreement or contract without first having received written permission from the city. (1984 Code, § 13-111)

18-112. Special service. Persons, firms, or corporations desiring small amounts of water for a short time or service which will require the special attention of an employee of the city will be required to make a deposit, the amount of which will be fixed by the city recorder. For water used by such person a charge will be made at rates fixed by the recorder in keeping with the service rendered. The deposit made shall be applied against such charge and the difference between the deposit and the charge shall be paid by the party owing the same. (1984 Code, § 13-112)

18-113. Cutoff and repairs. The city reserves the right to shut off the water in the mains at any time for the purpose of making repairs or extensions or for other necessary purposes. It will endeavor to give notice of such shut off except in cases of accident or emergency. All owners and consumers having boilers on their premises are hereby cautioned against dangers arising from interrupted service. (1984 Code, § 13-113)

18-114. Interruptions of service. All contracts for furnishing water shall be made subject to interruptions or inability to fulfill the same for any and all causes whatsoever, and the city will not be liable for damages for any failure to furnish water. (1984 Code, § 13-114)

18-115. City not compelled to construct lines. The provisions of this chapter shall in no way be construed as requiring the city to construct water mains and sewer mains on streets, alleys or in private property where such mains are not already laid. (1984 Code, § 13-115)

18-116. Garbage and refuse not to be thrown into sewers, etc. It shall be unlawful to throw or deposit, or cause or permit to be thrown or deposited in any vessel or receptacle connected with a sewer any garbage, hair, ashes, fruit, vegetables, peelings, refuse, rags, cotton, cinders or any other matter or thing whatsoever except feces, urine and the necessary closet paper and liquid house slops; and it is hereby made the duty of all citizens to aid the city in bringing offenders against this section to punishment and also to prevent breaches of the same. (1984 Code, § 13-116)

18-117. Violation and penalties. Any person, firm, corporation or corporations violating any of the foregoing provisions of this chapter shall be guilty of a misdemeanor.

In addition to the fine as provided for in the general penalty clause for this code the city may refuse to furnish water to the premises of any applicant who fails to meet all the applicable conditions and terms of this chapter or it may discontinue service in the event the consumer violates or fails to comply with any of the provisions of this chapter. (1984 Code, § 13-117)

18-118. Fluoridation of water supply. The water department is hereby authorized and instructed to make plans for the fluoridation of the water supply of the City of Waverly, Tennessee; to submit such plans to the Department of Health and Environment of the State of Tennessee for approval and, upon approval, to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of the public water supply.

The cost of such fluoridation will be borne by the revenues of the water department. (1984 Code, § 13-118)

18-119. Water and sewer rates and charges. The rates and charges per month for the use of and services rendered by the Waterworks and Sewerage System of the City of Waverly shall be in accordance with the following schedule:

(1) Water Rates.

(a) Inside city rates:

First 2,000 gallons (or less)	\$26.17 per mo.
Next 10,000 gallons	2.71 per M gallons
Next 10,000 gallons	1.94 per M gallons
Next 22,000 gallons (and over)	1.64 per M gallons

(b) Outside city rates:

First 2,000 gallons or less	\$41.48 per mo.
Next 10,000 gallons	4.34 per M/gallons
Next 10,000 gallons	3.10 per M/gallons
All over 22,000 gallons	2.62 per M/gallons

(2) Sewer Rates.

(a) Inside city rates:

(i) Residential: Based on volume of water consumed:

For first 2,000 gallons \$29.80 per month (minimum charge).

For next 3,000 gallons An additional \$1.36 per 1000 gallons or fraction thereof.

For next 3,000 gallons An additional \$.97 per 1000 gallons or fraction thereof.

For all over 8,000 gallons An additional \$.82 per 1000 gallons or fraction thereof.

(ii) Commercial: Based on volume of water consumed:

For first 2,000 gallons \$44.40 per month (minimum charge).

For next 10,000 gallons	An additional \$2.71 per 1000 gallons or fraction thereof.
For next 10,000 gallons	An additional \$1.84 per 1000 gallons or fraction thereof.
All over 22,000 gallons	An additional \$1.64 per 1000 gallons or fraction thereof.

(b) Outside city rates:(i) Residential: Based on volume of water consumed:

For first 2,000 gallons	\$40.14 per month (minimum charge)
For next 3,000 gallons	An additional \$2.18 per 1000 gallons or fraction thereof.
For next 3,000 gallons	An additional \$1.55 per 1000 gallons or fraction thereof.
For all over 8,000 gallons	An additional \$1.31 per 1000 gallons or fraction thereof.

(ii) Commercial: Based on volume of water consumed:

For first 2,000 gallons	\$44.40 per month (minimum charge)
For next 10,000 gallons	An additional \$3.71 per 1000 gallons or fraction thereof.
For next 10,000 gallons	An additional \$1.94 per 1000 gallons or fraction thereof.
All over 22,000 gallons	An additional \$1.64 per 100 gallons or fraction thereof.
All over 50,000 gallons	An additional \$1.94 per 1000 gallons or fraction thereof.

(3) A tap fee for the initial connection of a service line to the main trunk line for a location not already served by an existing water service line and for setting of a meter shall be made on each and every such tap or connecton as follows:

Inside City Limits

For Water:

3/4 inch line	\$ 500
1 inch line	\$ 700
1-1/2 inch line	\$1,200
2 inch line	\$1,600
4 inch line	\$3,000
6 inch line	\$5,000

For Sewer:

4 inch line	\$ 900
6 inch line	\$1,200

Outside City Limits

For Water:

3/4 inch line	\$1,050
1 inch line	\$2,100
1- 1/2 inch line	\$3,000
2 inch line	\$4,200
4 inch line	\$6,000
6 inch line	\$9,000

For Sewer:

4 inch line	\$1,200
6 inch line	\$1,800

If the connections actually cost the city more than the amount set forth herein, then the larger amount shall be charged as determined by the superintendent of public works.

(4) The above rates are net with the gross rates being ten percent (10%) higher. In the event the current bill is not paid in ten (10) days from the date of the bill, the gross rates shall apply.

(5) A non-refundable connection service charge or fee shall be made for each and every connection to the city water distribution system where there is an existing service line available, and shall be in accordance with the following schedule:

For new service to the premises \$50.00

For service by disconnection of a customer at one location and an immediate reconnection performed at another location \$25.00

(6) Any user of the city sewage system may, at his, her, their or its expense, install a metering device satisfactory to the city to meter or measure the gallons of liquified effluent discharged into the city publicly-owned sewage treatment system or works in order to establish the consumption in gallons on which to compute his, her, their or its sewer use rates. Unless such metering device is of such specifications and is installed and maintained by the user to the satisfaction of the city then his, her, their or its sewer use rates, residential or commercial, shall be computed by the city based on water consumption metered to the premises of the user on which water charges are computed. (1984 Code, § 13-119, as amended by Ord. #1988-19, Oct. 1988; Ord. #1993-7, Sept. 1993; Ord. #1994-2, Sept. 1994; Ord. #1995-8, July 1995; Ord. #1996-9, April 1996; Ord. #2003-19, June 2003, Ord. #2007-10, June 2007, and Ord. #2011-16, June 2011)

18-120. Extension of services to subdivisions, etc. Any person or persons, firm or corporation desiring to have water and/or sewerage service made available to a particular area or subdivision within or without the city limits and to be served by the water and/or sewer systems of the City of Waverly, Tennessee, shall at their own expense present detailed plans and specifications for said system, showing the size of the lines, etc. that are proposed in said area or subdivision to the City of Waverly for its consideration. If said plan meets with the approval of the city engineer as to the size, etc. required and recommended for the development of such area, the city may permit the distribution system and/or lines to be connected to the said water and/or sewerage system with the further proviso that the subdivider shall furnish the city a statement or guarantee that all bills and charges for labor, materials or other services in connection with said construction have or will be paid in full and further that said subdivider will execute an agreement with the city acknowledging that said sewer and/or water lines will belong to the city clear and free and unencumbered.

It is fully understood that all current rates for the services will be paid by the customers including a proper deposit together with the customary tap fees and installation charges. However, if it is determined by the city that the completion and addition of the proposed construction will be of benefit to the water and sewer system of said city, then the city may at its discretion allow the developer certain privileges or waive its rights to tap-on fees. Under no circumstances will the city engage in any payback plan from the revenues obtained from said development over a period of years, this amendment

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specifically eliminating all payback privileges heretofore allowed under existing ordinances.

Any existing or valid contracts heretofore entered into by the city and developers or properly negotiated prior to the effective date of this chapter shall not be affected hereby. (1984 Code, § 13-120)

CHAPTER 2

SEWAGE DISPOSAL

SECTION

- 18-201. Definitions.
- 18-202. Use of public sewers required.
- 18-203. Private sewage disposal.
- 18-204. Building sewers and connections.
- 18-205. Use of public sewers.
- 18-206. Industrial discharge permit system.
- 18-207. Charges and fees.
- 18-208. Penalties-civil and criminal.

18-201. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(1) "The Act" shall mean the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.), as amended by the Federal Water Pollution Control Act Amendments of 1972 (PL 92-500) and subsequent amendments.

(2) "B.O.D." (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 twenty (20) degrees C., expressed in milligrams per liter by weight.

(3) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(4) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(5) "Cash flow" shall mean the cash receipts and disbursements of any organization covering a particular period of time.

(6) "C.O.D." (denotes chemical oxygen demand) shall mean the quantity of oxygen utilized in the oxidation of organic matter to carbon dioxide and water expressed in milligrams per liter by weight.

(7) "Collateral" shall mean security provided by banks for cash and securities in their custody.

(8) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(9) "Compatible wastes" shall mean such wastes as 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 treatment works is designed to treat such pollutants and in fact does remove pollutants to a substantial degree.

(10) "Dissolved solids" shall mean all solids found in water, sewage, or other liquids, and which are not removable by laboratory filtering.

(11) "Domestic wastewater" shall mean sewage derived principally from dwelling due to domestic activity excluding groundwater, surface water or storm water.

(12) "EPA" shall mean the Environmental Protection Agency, an agency of the United States, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

(13) "Garbage" shall mean solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(14) "Grantee" shall mean the City of Waverly, Tennessee.

(15) "Grab sample" shall mean a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(16) "Incompatible waste" shall mean such wastes as outlined in Table I.

(17) "Industrial cost recovery" shall mean recovery by the grantee, from the industrial users of a treatment works, of the grant amount allocable to the treatment of waste from such users pursuant to Section 204(b) of the Act.

(18) "Industrial cost recovery period" shall mean the period during which the grant amount allocable to the construction of facilities for treatment of wastes from industrial users is recovered from the industrial users of such works.

(19) "Industrial user" shall mean a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act.

(20) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

(21) "Infiltration" shall mean groundwater entering the sewer system through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from inflow.

(22) "Infiltration/Inflow" shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

(23) "Interference" shall mean inhibition or disruption of the sewer system, treatment processes or operation or which contributes to the violation of any requirements of the city's NPDES permit.

(24) "Inflow" shall mean the surface water discharged into a sewer system through such means as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm drains and combined sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. Inflow does not include and is distinguished from, infiltration.

(25) "Letter of intent" shall mean a written statement from an industrial user to a municipality of that user's intent to utilize a specified portion of the publicly owned waste treatment facility for a given length of time.

(26) "Monitoring" shall mean the measurement, continuous or intermittent, of water quality.

(27) "National Pollution Discharge Elimination System or NPDES Permit" shall mean a permit issued to a POTW pursuant to Section 402 of the Act.

(28) "National pretreatment standard or pretreatment standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1437) which applies to industrial users.

(29) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(30) "New source" shall mean any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which would be applicable to such source, if such standard is thereafter promulgated within 120 days of the proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

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

(32) "pH" shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

(33) "Pollution" shall mean a man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

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

(35) "Primary treatment" shall mean preliminary treatment of wastewater resulting in removal of coarse solids, suspended and floating solids.

(36) "Process water" shall mean water that comes in contact with a product or with material incorporated in an end product.

(37) "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such a

degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

(38) "Public sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(39) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(40) "Sanitary wastewater" shall mean wastewater discharging from the sanitary conveniences at dwellings (including apartment houses and hotels), office buildings, industrial plants, or institutions.

(41) "Secondary wastewater treatment" shall mean the treatment of wastewater to meet secondary effluent limitations as defined in 40 C.F.R. 133, Secondary Treatment Information.

(42) "Sewage" shall mean a combination of the watercarried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

(43) "Sewage treatment plant" shall mean any arrangement of devices treating and disposing of sewage.

(44) "Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(45) "Sewer" shall mean a pipe or conduit for carrying sewage.

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

(47) "Significant industrial user" shall mean:

(a) A nongovernmental user discharges a waste whose characteristics are greater than the following:

Flow	25,000 gallons per day
BOD	62.6 lbs./day
COD	125.1 lbs./day
TKN	12.5 lbs./day
NH ₃ -N	6.3 lbs./day
Suspended Solids	62.6 lbs./day
Oil and Grease	20.9 lbs./day

(b) A nongovernmental user whose discharge contains toxic pollutants or hazardous material which are subject to national pretreatment standards; and

(c) All commercial users of EPA funded individual systems.

(48) "Slug" shall mean any discharge of water, sewage, or industrial waste in which the concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration flows during normal operation.

(49) "Standard industrial classification or SIC" shall mean a classification pursuant to the Standard Industrial Classification Manual issued

by the Executive Office of the President, Office of Management and Budget, 1972.

(50) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(51) "Superintendent" shall mean the Superintendent of Sewage Works and/or Sewage Plant of the City of Waverly, his authorized deputy agent, or representative.

(52) "Suspended solids" shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(53) "Total solids" shall mean all the matter which remains as a residue after water, sewage and/or other liquids are subjected to evaporation at 105°C.

(54) "Toxic pollutant" shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(55) "Twenty-four hour, flow proportional composite sample" shall mean a sample consisting of several effluent portions collected during a twenty-four (24) hour period in which the portions of sample are proportionate to the flow to combine to form a representative sample.

(56) "Useful life" shall be the estimated period during which a treatment works will be operated.

(57) "User" shall mean any individual, firm, company, association, society, corporation, or group.

(58) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (1984 Code, § 8-201)

18-202. Use of public sewers required. (1) Disposal of human and animal excrements. It shall be unlawful for any user to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Waverly, or any area under the jurisdiction of the said city, any human or animal excrement, garbage, or other objectionable waste.

(2) Discharge of sewage of polluted waters. It shall be unlawful to discharge to any natural outlet within the City of Waverly, or in any area under the jurisdiction of the said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Septic tank, cesspool, privy vault, and privy construction. Except as hereafter 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.

(4) Requirement of sewer connection. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a

public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is adjacent to the owner's abutting property line except where some other unusual circumstance exists. (1984 Code, § 8-202)

18-203. Private sewage disposal. The disposal of sewage by means other than the use of the available sanitary sewage system shall be in accordance with local, county, state, and federal law. The disposal of sewage by private disposal system shall be permissible only in those instances where service from the available sanitary sewage system is not available. (1984 Code, § 8-203)

18-204. Building sewers and connections. (1) Sewer connections. No unauthorized user shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(2) Building sewer permits. There shall be two (2) classes of building sewer permits:

(a) for residential and commercial service, and

(b) for service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city. Their permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of ten dollars (\$10.00) shall be paid to the city at the time the application is filed.

(3) Cost of sewer connection. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building permit.

(4) Users per connection. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or any 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.

(5) Use of existing sewer connection. Old building sewers 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 chapter.

(6) Design consideration for building sewers. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code

provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

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

(8) Design considerations for connecting building and public sewers. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(9) Inspection of building sewers. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or the representative.

(10) Excavation. 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. (1984 Code, § 8-204)

18-205. Use of public sewers. (1) Wastes excluded from discharge into the Waverly sewerage system. No user shall discharge or allow to be discharged into the sewerage system any of the following materials:

(a) Storm water and drainage.

(b) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F), sixty-six degrees Centigrade (66°C).

(c) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tars, plastic, wood, pauch manure, lime slurry, lime residue, chemical residue, cannery wastes, painting residues, bulk solids, or any other solid or viscous substance capable of causing obstruction to the flow in the sewers or interference with the proper operation of the sewerage works and sewage treatment plant.

- (d) Gasoline, benzine, naphtha, fuel oil, mineral oil, and other flammable or explosive liquids, solids, or gases.
- (e) Unshredded or improperly shredded garbage.
- (f) Any wastes having a stabilized pH of less than six (6.0) or more than nine (9.0).
- (g) Any waste containing excessive amounts of fat, oil, or grease exclusive of soap, as outlined in § 18-207(4).
- (h) Noxious or malodorous gases or substances which singly or by interaction with other wastes may create a public nuisance, hazard to life, or prevent entry into the sewers for maintenance and repair.
- (i) Waste with an excessive color such as dye waste.
- (j) Any waters or wastes containing suspended solids or other contaminants of such character and quality that unusual attention or expense is required to handle such wastes at the wastewater treatment plant.
- (k) Any wastewaters not conforming to the requirements in Figure 1 and Table 1, which are as follows:

FIGURE I

POLLUTANT CONCENTRATION LIMITS GUIDE

Concentration Measured at: Type Waste:	Sewage Treatment Plant Influent	Industrial Discharge Into Sewerage System
Compatible Wastes (BOD, COD, TKN, suspended solids, settleable solids, BOD/COD)	Concentration must not exceed plant design limits.	Discharge must meet STP influent limits.* As long as that limit is met, then the discharge may exceed the concentration of normal sewage and the treatment costs covered by a surcharge.
Incompatible Wastes (Heavy metals, cyanides, pesticides, toxic wastes, etc.)	Concentration must not exceed plant design limits. Limits set by technical considerations for STP to meet its effluent permit and to prevent disruption of plant unit operations.	Discharge must meet STP influent limits. Additionally, industrial discharges will be treated to a maximum concentration level set by the practical limits of technology and no variance to this maximum concentration will be given.

*This limit may be relaxed for systems not having combined sewers. For systems having combined sewers, this requirement is necessary since the large sewer lines required to carry combined sewer hydraulic loads may act as settling basins during dry periods. During wet periods, these pipe deposits may be resuspended and cause a very high BOD and suspended solids load on the STP.

TABLE 1

MAXIMUM CONCENTRATION IN SEWAGE TREATMENT PLANT INFLUENT¹

<u>Constituent</u>	<u>Instantaneous Maximum Concentration (mg/l)</u>	<u>Recommended Maximum Concentration With Safety Factor (mg/l)</u>
Compatible Wastes:		
Biochemical Oxygen Demand	350	
Chemical Oxygen Demand	400	
Settleable Solids	10	
Total Suspended Solids	650	
Nitrogen (Total Kjeldahl)	50	
Incompatible Wastes:		
Arsenic	0.2	0.05
Boron	1.0	0.2
Cadmium	0.01	BDL ²
Chromium (Hexavaient)	0.5	0.1
Chromium (Total)	5.0	1.0
Copper	0.5	0.1
Cyanide	0.05	BDL
Lead	0.05	BDL
Mercury	0.05	
Nickel	0.5	0.1
Pesticides	BDL	
Zinc	0.04	BDL

Note: The above maximum concentrations are based on research which has defined tolerance levels of various incompatible wastes relative to sewage treatment plant unit operations. Since there is no safety factor in the above parameter limits, careful judgment must be used to determine at what point corrective action must be taken to prevent incompatible pollutant concentrations from exceeding the maximum allowed in Table 1. It is important to note that cumulative toxicities and synergistic effects due to a mixture of incompatible wastes may have a deteriorious effect on sewage treatment plant processes at concentrations much less than those shown above. The second column indicates these same values with a safety factor applied. (A factor of 5 in most cases).

¹Based on design capacity of plant

Reference: "Pretreatment of Pollutants Introduced into Publicly Owned Treatment Works"; U.S.E.P.A. Federal Guidelines, October 1973.

²BDL: Below Detectable Limit

This is the recommended approach to listing incompatible pollutant concentrations in sewer use ordinances to protect the treatment plant. Additionally, the parameters listed in Table 1 are derived on the assumption that an effluent limited permit condition exists. However, in certain cases where the effluent standards for the sewage treatment plant are based on a water quality limited condition, then the concentrations stipulated in Table 1 may have to be adjusted downward to satisfy the permit requirements.

(l) Dilution of any wastewater discharge for the purpose of satisfying these requirements should be considered a violation of the chapter.

(m) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(n) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Materials which exert or cause:

(i) Unusual concentrations of inert solids (such as but not limited to Fullers earth, lime slurries, and lime residues) or if dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(ii) Unusual BOD and COD concentrations, see § 18-207(4), and Table 1, for chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works. A charge may be established by the superintendent for BOD and COD in excess of the previous figures.

(iii) Unusual volume of flow or concentration of wastes constituting "Slugs" and defined herein.

(p) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment process employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(q) Waters or wastes containing excessive amount of nitrogen and/or settleable solids, see Table 1.

(2) User compliance with waste discharge standards. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, and contain the substances or possess the characteristics enumerated in § 18-205(1) or the criteria established by the Federal Government on discharge of toxic and hazard materials and which in the judgment of the superintendent and the Division of Water Quality Control, Tennessee Department of Health and Environment, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(a) Prohibit the discharge of such wastewater;

(b) Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this chapter.

(c) Require pretreatment including storage facilities or flow equalization necessary to reduce or eliminate objectionable characteristics or substances so that the discharge will not violate these rules and regulations.

(d) Require the person making, causing or allowing the discharge to pay an additional cost or expense incurred by the city for handling and treating excess loads imposed on the treatment system.

(e) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this chapter.

(3) Pretreatment construction. (a) All industrial users here or now after shall become subject to the national pretreatment standards as promulgated by the EPA.

(b) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(c) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(d) Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment of flow-control facilities shall first be submitted to the superintendent for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the superintendent.

(e) If pretreatment or control of waste flows is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws.

(4) Personal injury. While performing the necessary work on private properties referred to in § 18-205(8)(c), the superintendent or duly authorized employees of the city 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 city employees and the city shall indemnify the company against loss or damage to its property by community employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(5) Right of entry. The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, 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.

(6) Protection from accidental discharge. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the superintendent for review, and shall be approved by him before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify his facility as necessary to meet the requirements of this chapter.

(7) Reporting of accidental discharge. If for any reason a facility does not comply with or will be unable to comply with any prohibition or limitations in this chapter, the facility responsible for such discharge shall immediately notify superintendent so that corrective action may be taken to protect the treatment system. In addition, a written report addressed to the superintendent detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges, shall be filed by the responsible facility within five (5) days of the occurrence of the noncomplying discharge.

(8) Industrial users. (a) All charges and fees will be collected in accordance with §§ 18-205 and 18-207.

(b) All industrial users' waste discharged into the Waverly Municipal Sewer System shall comply with the standards outlined in §§ 18-205 and 18-207.

(c) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall

install a suitable control manhole together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(d) Every significant industrial user shall file a periodic discharge report at such intervals as are designated by the superintendent. The superintendent may require any other industrial users discharging or proposing to discharge into the treatment system to file such periodic reports.

(e) The discharge report shall include but in the discretion of the superintendent, shall not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled pollutants or other information which relates to the generation of waste. Such reports may also include the chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged. In addition to discharge report, the superintendent may require information in the form of industrial discharge permit application and self-monitoring reports.

(f) All industrial users who discharge or propose to discharge wastewaters into the wastewater treatment system shall maintain such records of production and related factors, effluent flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this chapter and any applicable state or federal pretreatment standards or requirements.

(g) Such records shall be made available upon written request by the superintendent, Tennessee Department of Health and Environment, or federal agency. All such records relating to compliance with pretreatment standards shall be made available to all city, state and federal authorities upon receipt of a written request. A summary of such data indicating the industrial user's compliance with this chapter shall be prepared quarterly and submitted to the superintendent.

(h) All measurements, tests, and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the latest editions of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association and shall be determined at the control manhole provided, or suitable samples taken at said control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24)

composite of all outfalls of a premises is appropriate to whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composites of all outfalls whereas pH's are determined from periodic grab samples).

(i) Sampling of industrial wastewater for the purpose of compliance or determination with respect to § 18-205 and Table 1, prohibitions and limitations will be done at such intervals as the superintendent may designate. However, it is the intention of the superintendent to conduct compliance sampling or to cause such sampling to be conducted for all major contributing industries at least once every year. (1984 Code, § 8-205, as amended by Ord. #1993-6, Sept. 1993)

18-206. Industrial discharge permit system. (1) Wastewater discharge permits required. All significant industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a discharge permit. (All existing significant industrial users connected to or discharging to any part of the city system must obtain a wastewater discharge permit within ninety (90) days from and after the effective date of this chapter).

(2) Permit application. Users seeking a wastewater discharge permit shall complete and file with the superintendent an application on the form prescribed by the superintendent and accompanied by the applicable fee. In support of this application, the user shall submit the following information:

- (a) Name, address, and SIC number of applicant;
- (b) Volume of wastewater to be discharged;
- (c) Wastewater constituents and characteristics including, but not limited, those set forth in § 18-205 and Table 1 of this chapter as determined by reliable analytical laboratory;
- (d) Time and duration of discharge;
- (e) Average and peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
- (g) Description of activities, facilities and plant process on the premises including all materials and types of materials which are, or could be, discharged;
- (h) Each product produced by type, amount, and rate of production;
- (i) Number and type of employees, and hours of work;
- (j) Any other information as may be deemed by the superintendent to be necessary to evaluate the permit application;
- (k) The superintendent will evaluate the data furnished by the user and may require additional information. After evaluation and

acceptance of the data furnished, the superintendent may issue a wastewater discharge permit subject to terms and conditions provided herein.

(3) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the city. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this chapter, and applicable state and federal regulations. Permit conditions will include the following:

- (a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the system;
- (b) The average and maximum wastewater constituents and characteristics;
- (c) Limits on rate and time of discharge or requirements for flow regulations and equalizations;
- (d) Requirements for installation of inspection and sampling facilities, and specifications for monitoring programs;
- (e) Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharges;
- (f) Daily average and daily maximum discharge rates, or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge;
- (g) Compliance schedules;
- (h) Other conditions to ensure compliance with this chapter.

(4) Duration of permits. Permits shall be issued for a specified time period, not to exceed two years. If the user is not notified by the superintendent thirty (30) days prior to the expiration of the permit, the permit shall automatically be extended for 24 months. The terms and conditions of the permit may be subject to modification and change by the superintendent during the life of the permit. 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.

(5) 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 changed operation.

(6) Revocation of permit. Any user who violates the following conditions of his permit or of this chapter, or of applicable state and federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include but are not limited to the following:

- (a) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;

(b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit.

(7) Permit appeal procedure. An industry shall have the right to appeal all items established in the discharge permit. The procedure shall be as follows: A written notice, signed by the person in charge of the industry seeking an appeal hearing, shall be delivered by registered mail to the superintendent outlining the permit provisions which the user wishes to appeal. The superintendent shall then have thirty (30) days from the time of receipt of the notice to notify the Environmental Protection Agency and the Waverly City Council that an appeal hearing will be held. A hearing shall then be conducted and all grievances alleged by the user shall be discussed, and appropriate decisions rendered by the superintendent. Any decisions which in the judgment of the user are inappropriate may be appealed to the Waverly City Council by filing a written notice with said board within fourteen (14) days after completion of the first hearing. The city council shall have then forty-five (45) days in which to notify the Environmental Protection Agency that a grievance still exists, and to convene a meeting of the board to hear all unresolved grievances and issue appropriate decisions. The user and/or the superintendent shall have the right to appeal any and all decisions to the Environmental Protection Agency. Exemptions or variances of the protection criteria established for the system shall not be granted during this appeal procedure. (1984 Code, § 8-206)

18-207. Charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the City of Waverly, which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining adequate wastewater collection and treatment systems, depreciation, and provide sufficient funds for equitable industrial costs recovery of EPA administered Federal Grants. Such charges and fees shall be adopted by a separate ordinance. This section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs, and capital improvements may be assessed by the City of Waverly. These charges and fees shall be recovered through the user classification charge established below.

(2) Classification of user. All users shall be classified by the superintendent 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.

(3) Type of charges and sewer fees. The charges and fees as established in treatment works schedule of charges and fees, may include, but not be limited to:

- (a) User classification charges;
- (b) Fees for monitoring requested by user;
- (c) Fees for permit applications;
- (d) Appeal fees;
- (e) Charges and fees based on wastewater constituents and characteristics to include industrial cost recovery provisions of the Federal Act;
- (f) Fees for use of garbage grinders;
- (g) Fees for holding tank wastes.

(4) Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD	350 milligrams per liter
COD	400 milligrams per liter
TKN	50 milligrams per liter
NH ₃ -N	20 milligrams per liter
Suspended Solids	650 milligrams per liter
Oil and Grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of the user which may include, but not limited to, BOD, COD, SS, NH₃ as N, oil and grease, chlorine demand, and volume.

(5) User charges and industrial cost recovery. Each user of the treatment works shall be levied a charge for payment of bonded indebtedness of the treatment system and for that user's proportionate share of the operations and maintenance costs of the system. Each industrial user will be levied a charge for its share of the cost recovery of EPA administered federal grants for wastewater facilities as defined in Subpart E, Part 35, Subchapter D, Ch. 1, Title 40 of the Code of the Federal Regulations. A surcharge will be levied against those users with wastewater that exceeds the strength of "Normal Wastewater."

The user charge will be computed from a base charge plus a surcharge. The base charge will be the user's proportionate share of the costs of operations

and maintenance (O & M) including replacement for handling its periodic volume of "Normal Wastewater" plus the user's proportionate share for the recovery of federal grant allocable to the treatment of wastes from such users.

(a) Operation and maintenance user charges: Each user's share of operation and maintenance costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

C_u	=	User's charge for O & M per unit of time.
C_t	=	Total O & M cost per unit of time.
V_t	=	Total volume contribution from all users per unit of time.
V_u	=	Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(b) Surcharges: The surcharge will be the user's proportionate share of the O & M costs for handling its periodic volume of wastewater which exceeds the strength of BOD₅, suspended solids, and/or other elements in "Normal Wastewater" as defined by subsection (4). The amount of the surcharge shall be determined by the following formula:

$$C_s = (B_c \cdot B \cdot S_c \cdot S + P_c \cdot P) V_u$$

Where:

C_s	=	Surcharge for wastewaters exceeding the strength of "Normal Wastewater" expressed in dollars per billing period.
B_c	=	O & M cost for treatment of a unit of BOD ₅ expressed in dollars per pound.
B	=	Concentration of BOD ₅ from a user above the base level of 5.42 lbs./1,000 gallons expressed in pounds per 1,000 gallons.
S_c	=	O & M cost for treatment of a unit of suspended solids expressed in dollars per pound.

- S = Concentration of suspended solids from a user above the base level of 5.42 lbs./ 1,000 gal. expressed in lbs. per 1,000 gal.
- Pc = O & M cost for treatment of a unit of any pollutant which the publicly-owned treatment works is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound.
- P = Concentration of any pollutant from a user above a base level. Base levels for pollutants subject to surcharges will be established by the superintendent.
- Vu = Volume contribution of a user per billing period. (Expressed in thousands of gallons).

The values of parameters used to determine user charges may vary from time to time. Therefore, the superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than annually.

(c) Industrial cost recovery: There shall be levied on each industrial user of the treatment works system a charge equal to that industry's share of all EPA administered federal grants received after March 1, 1973, for the purpose of constructing additions or improvements to the system's facilities. Industrial users shall pay their share, without interest, of all grants for sewerage facilities during the recovery period not to exceed the design life of the facility or thirty (30) years, whichever is less. The recovery period shall commence when industrial utilization of the facility begins. The amount to be recovered shall be based on the industrial loading in relation to each industry and in relation to the design capacity of the facility for which the grants are received.

Any industrial user may be excluded if it is determined that it will introduce only segregated domestic waste or wastes from sanitary conveniences, unless such user's flow or load (e.g. BOD, SS, etc.) equal ten (10) percent or more of the corresponding design flow or load parameters.

The industrial user's share shall not include a charge for the grant allocable to unused capacity unless the industry has formally committed itself to a portion of this unused capacity for future expansions. Fifty percent (50%) of the funds collected under this section will be refunded to the federal government as set forth in Public Law 92-500. The

remaining fifty percent (50%) will be retained by the City of Waverly and utilized as set forth by Public Law 92-500.

The charge for industrial cost recovery of federal grants shall be computed as follows:

$$Cr = \frac{1}{N} (Cv \times \frac{Vu}{Vt} + Cb \times \frac{Bu}{V} + Cx \times \frac{Su}{X})$$

- Where:
- Cr = Recovery cost to user per billing period.
 - N = Number of billing periods per useful life of improvements, expansions, and facilities covered by grant funds.
 - Vu = Industrial flow which equals peak discharge rate for hydraulic facilities such as interceptors, pump stations, and force mains, and average flow for treatment plants, both rates determined by the superintendent.
 - Vt = The appropriate design flow rate for the grant supported treatment works.
 - Bu = Average daily BOD load of industrial user billing period.
 - B = Average daily design loading of BOD for the grant supported treatment works.
 - Su = Average daily load of suspended solids of industrial user during billing period.
 - S = Average daily design loading of suspended solids for the grant supported treatment works.
 - Cv = Cost attributable to flow treatment.
 - Cb = Cost attributable to BOD treatment.
 - Cs = Cost attributable to SS treatment.

Cv, Cb, and Cs are determined as follows:

$$C = C_v + C_b + C_s$$

C = Amount of federal grants for improvements, expansions, and new facilities, excluding those portions of the grant attributable to:

- (i) Infiltration/Inflow correction or treatment.
- (ii) Correction of combined sewer overflow and collection or treatment of storm waters.
- (iii) Projects which will not initially serve industrial users. These projects will be included in C when the first industrial user begins to use them.
- (iv) Unreserved excess capacity of the Treatment of Transportation Facility. This amount will be adjusted when existing or new industrial users begin to use some of the unreserved excess capacity.

Those portions of C which are not directly attributable to flow, BOD, or SS treatment will be spread among the costs associated with treating these characteristics in the following manner:

$$C_v = C_x \times M$$

$$C_b = C_y \times M$$

$$C_s = C_z \times M$$

Where: C_x = That portion of C which is directly attributable to flow treatment.

C_y = That portion of C which is directly attributable to BOD treatment.

C_z = That portion of C which is directly attributable to SS treatment.

$$\text{(Multiplier) } M = \frac{C}{C_x + C_y + C_z}$$

(d) Special exceptions for new-user startups: Notwithstanding the schedules and/or formulae for the computation of user charges,

surcharges and other industrial user cost recoveries as set forth in subsection (5), the board of mayor and aldermen by special order may grant relief from the user charges, surcharges and other industrial cost recoveries hereof. Such relief shall not be for a period in excess of 240 days from the date of an initial startup as determined by the board of mayor and aldermen. During any such period the board may set maximum special user charges, surcharges and other industrial cost recovery charges.

(6) Appeal procedure. An industry shall have the right to appeal any and all charges and fees assessed against them. The procedure shall be as follows: A written notice, signed by the person in charge of the industry seeking an appeal hearing, shall be delivered by registered mail to the superintendent outlining the fees and charges which the user wishes to appeal. The superintendent shall then have thirty (30) days from the time of receipt of the notice to notify the Environmental Protection Agency and the Waverly City Council that an appeal hearing will be held. A hearing shall then be conducted and all grievances alleged by the user shall be discussed, and appropriate decisions rendered by the superintendent. Any decisions which in the judgment of the user are inappropriate may be appealed to the Waverly City Council by filing a written notice with said council within fourteen (14) days after completion of the first hearing. The Waverly City Council shall then have forty-five (45) days in which to notify the Environmental Protection Agency that a grievance still exists, and to convene a meeting of the council to hear all unresolved grievances and issues appropriate to decisions. The user and/or the superintendent shall have the right to appeal any and all decisions to the Environmental Protection Agency.

(7) New industry. A "new industry" shall be defined as one which connects to the treatment system after such treatment works have been placed in operation. The industry shall commence payment of fee and charges on the date that use of the system is initiated and shall continue for the unexpired portion of the recovery period, or until the industry ceases utilization of the facility, whichever occurs first. The total payments recovered from a new industry shall be the federal cost of the capacity used multiplied by the ratio of its period of use to the recovery period.

The wastewater characteristics of each industrial user shall be determined by monitoring or where monitoring is not feasible, wastewater characteristics may be estimated using historical records, data from similar industrial users, etc. After initiation of the charges and fee system, major industrial users shall be monitored on a regular basis, not less often than annually. Monitoring of minor industries may be done intermittently. The City of Waverly has developed a definition of major and minor industry and a monitoring program for each which reflects its relative impact on the cost of construction of the treatment works (such information is available at the

superintendent's office). Monitoring shall be conducted during periods of normal discharge.

(8) Discontinuance of use by industrial users. If an industrial user discontinues use of the treatment works, including termination of any agreement for reserve capacity, its payment of charges and fees will cease. There shall be no requirement for other industries presently utilizing the treatment works to assume the portion of the payment which is unrecovered due to the departure of an industrial user. Total payments recovered from an industrial concern under such circumstances shall be the federal cost of the capacity used multiplied by the ratio of its period of use to the recovery period. A significant industrial user planning to discontinue use of the treatment facility during the recovery period shall make its intentions known in the letter of intent required under 40 CFR 35.925-12.

(9) Lump sum payment. An industrial user may wish to fulfill its payment obligation by making a lump sum payment for its entire share of the cost of construction of the treatment works. Such payments accepted by the city shall be either processed in the normal manner, or set aside in a separate account to be drawn on annually for the remainder of the recovery period. Lump sum payments will not relieve an industrial user from the obligation of making additional future payments should its wastewater flows or loads increase. No discount shall be awarded for users making advanced payments. Any interest earned by the city on advanced payments will be recoverable in the same manner as if the payments were made as due (40 CFR 35.928-2[a]).

(10) Administration and implementation. The City of Waverly shall maintain, for the duration of the cost recovery period, such records as are necessary to document compliance with the grant requirements. These will generally include the following:

- (a) Documentation of the final grant amount;
- (b) The originally approved industrial cost recovery system and all documentation related thereto;
- (c) All subsequent revisions to the industrial cost recovery system and all documentation related thereto;
- (d) A list of contributing industries and their wastewater loads to the system;
- (e) Information on the total wastewater loading of the system;
- (f) The grantee's notification to EPA of initiation of operation of the industrial cost recovery system;
- (g) All approval(s) of the use of retained funds;
- (h) The record of the grantee's annual payments to EPA and documentation related thereto;
- (i) Records relating to retention and investment of those funds set aside for future expansion and reconstruction. (1984 Code, § 8-207, as amended by Ord. #1993-6, Sept. 1993)

18-208. Penalties-civil and criminal. (1) Violations - generally. Violations of provisions of this chapter may constitute a civil violation for which civil sanctions may be imposed by the city in addition to being punishable under the penal sanctions as criminal violations pursuant to the city charter.

(2) Criminal violations. Prosecution for criminal violations shall be instituted by making a sworn complaint before the city judge or any other official authorized to hear complaints and issue summons and warrants thereon setting forth under oath the facts of a particular alleged violation. If the city judge or such other person finds that probable cause exists to believe that the alleged violation has been committed then such official may proceed to issue a warrant for the arrest of the alleged perpetrator or issue a summons for such person, as such officer shall determine, requiring the arrest of the alleged violator or summoning an appearance before the municipal court to answer such charges.

(3) Criminal penalties. Any person who shall violate any provision of this chapter or any requirement thereof or who shall violate any of the terms or conditions of any permit issued pursuant thereto shall be guilty of a misdemeanor against the city and for such conviction shall be fined an amount not exceeding \$50 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(4) Civil violations. Any industrial user who shall fail to comply with any provision of this chapter or who shall fail to comply with the terms and conditions of any permit issued pursuant hereto or who shall fail to pay any fee or assessment when due shall be served by the city manager with a written order stating the nature of such violation and directing such violator to cease and desist such violations, if continuing, and imposing and assessing civil penalties as authorized by this chapter. If a period of time is provided for the correction of any violation the industrial user shall, within the stated period, permanently cease all such violations.

(5) Penalties-civil violations. Any industrial user who shall violate any provision of this chapter or who shall fail to comply with the terms and conditions or standards set forth in any permit issued to such industrial user or who shall fail to promptly pay any fee or assessment when due shall be assessed a civil penalty in an amount of not less than \$1,000 nor more than \$10,000 per day during each day which such violation existed. In addition, service to such industrial user may be discontinued, wholly or in part, permanently or temporarily.

(6) Appeal of civil penalties. Any industrial user aggrieved by an order and assessment made by the city manager pursuant to the provisions of this chapter may appeal the same to the board of mayor and aldermen whose decision thereon shall be final except to the extent that any right exists for judicial review thereof.

(7) Expenses, etc. to be reimbursed to city. Any person violating any of the provisions of this chapter shall pay to the city all expense, loss or damage

incurred by the city by reason of any violation including, but not limited to, any fine or other penalty imposed upon the city by the State of Tennessee or the United States of America by reason of any violation committed by the city which was caused by a preceding or simultaneous violation by any such person. A civil order issued to an industrial user by the city manager pursuant to this chapter may assess such costs to such industrial user.

(8) Other remedies of city. Nothing herein shall prohibit the city from instituting any other civil or criminal prosecution or action permitted by law against any person who shall violate any of the provisions of this chapter or any of the provisions of any permit issued pursuant hereto or who shall fail to pay any fee or assessment imposed hereunder. (Ord. #1990-3, Feb. 1990)

CHAPTER 3

WATER SUPPLY EMERGENCIES

SECTION

- 18-301. Prohibition on waste of water during shortages.
- 18-302. Declaration of water emergencies by mayor.
- 18-303. Mayor authorized to establish restrictions on usage.
- 18-304. Non-essential uses during shortages.
- 18-305. Emergency conditions otherwise imposable by board.
- 18-306. Public notice and dissemination of information.
- 18-307. Sanctions for violation of an emergency order.
- 18-308. Leaks.

18-301. Prohibition on waste of water during shortages. No water furnished by the city shall be wasted during periods of emergency water shortages. Waste of water shall include, but is not necessarily limited to any of the following:

- (1) Permitting water to escape down a gutter, ditch, or other surface drain.
- (2) Failing to repair a controllable leak of water.
- (3) Failing to put to reasonable beneficial use any water withdrawn from the city water system. (Ord. #1989-4, May 1989)

18-302. Declaration of water emergencies by mayor. The mayor is authorized to declare a water emergency to exist in accordance with the standards as herein provided. A water shortage emergency shall be designated by the mayor as a "Category 1 Emergency," "Category 2 Emergency" or "Category 3 Emergency" in accordance with conditions as determined by the mayor using the following standards:

- (1) A Category 1 Emergency exists when the water level in the Town Hill Water Storage Tank cannot be brought above a two-thirds (2/3) full mark within a forty-eight (48) hour period.
- (2) A Category 2 Emergency exists when the water level in the Town Hill Water Storage Tank cannot be brought above a one-quarter (1/4) full mark within a forty-eight (48) hour period.
- (3) A Category 3 Emergency exists when regardless of the available supply of water from the city water system, such water is contaminated and unfit for human consumption. (Ord. #1989-4, May 1989, as amended by Ord. #2009-3, Feb. 2009)

18-303. Mayor authorized to establish restrictions on usage. When the city water supply reaches an emergency status the mayor may by executive order prohibit any or all of the uses of water identified as non-essential uses in

or decreased by him from time-to-time as the emergency continues. When the city water supply reaches a Category 3 emergency the mayor shall prohibit all human consumption and may, if necessary, curtail all domestic-use distribution thereof. The prohibitions shall remain in full force and effect until thereafter modified or rescinded by the mayor or by board of mayor and aldermen. (Ord. #1989-4, May 1989)

18-304. Non-essential uses during shortages. (1) The following uses are declared non-essential uses during a Category 1 Emergency:

(a) Any non-residential use in excess of seventy percent (70%) of the amount used during the corresponding billing period for the previous year.

(b) Washing sidewalks, driveways, parking areas, tennis courts, patios, or other exterior paved areas, except by the city for the public safety.

(c) Filling or re-filling a swimming pool.

(d) Non-commercial washing of privately owned motor vehicles, trailers, and boats.

(e) Watering of lawns, flower gardens, and ball fields.

(f) Watering any portion of a golf course.

(g) Use of water for dust control or compaction during construction.

(2) The following uses are declared non-essential uses during a Category 2 Emergency in addition to those listed for Category 1:

(a) Watering of trees, shrubs, or other plants, except by commercial nurseries, in which case item (c) below will apply.

(b) Use by a motor vehicle washing facility.

(c) Any non-residential use in excess of fifty percent (50%) of the amount used by the customer during the corresponding billing period for the previous year.

(d) Water served for drinking purposes at restaurants or other public or non-public eating establishments unless such water is specifically requested by the patron or customer.

(3) If the customer was not operating the previous year, an estimated amount shall be computed by the city from its records. The mayor may increase the percentage for any connection use or customer if he determines that such increase is necessary to protect the public health, safety, and welfare or to spread equitably among the water users of the city the burden imposed by the shortage in the city water supply. (Ord. #1989-4, May 1989)

18-305. Emergency conditions otherwise imposable by board. (1) The board of mayor and aldermen may declare a water emergency notwithstanding whether or not the city water supply has reached Water Shortage Emergency

Status 1, 2 or 3 and may designate prohibited usages other than those set forth herein.

(2) Only the board may modify, rescind, terminate or otherwise end a water emergency declared by it.

(3) The prohibitions imposed during a water emergency declared by the board shall continue in full force and effect until modified, rescinded, terminated or otherwise ended by the board. The board may terminate, modify or increase any limitations on use of water imposed by it. (Ord. #1989-4, May 1989)

18-306. Public notice and dissemination of information. Upon the declaration of the existence of a water emergency by the mayor or by the board, the city manager shall notify the local print and broadcast media thereof and shall furnish detailed information concerning the existence of the water emergency and all prohibited uses. In addition, a newspaper advertisement shall be published once per week during the emergency in a local newspaper informing the public of the water emergency and any prohibitions concerning usage. Every practical effort shall be made to keep the water-using public informed of conditions during any declared water emergency. (Ord. #1989-4, May 1989)

18-307. Sanctions for violation of an emergency order. (1) A customer who shall fail to comply with the requirements of a declared water emergency order may be reported to any official of the city and shall be immediately investigated by the city manager or his designated agent. If non-compliance is found to exist by the city manager, he shall request immediate compliance by the customer. Should the customer fail or refuse to immediately comply with the request, the city manager shall immediately notify the mayor who shall enter an order discontinuing water service to the offending customer.

(2) Any customer whose service is disconnected because of a failure to comply with the requirements of a declared water emergency shall have the right, after the first such disconnection, to have service reinstated upon payment to the city of its customary reconnection charges and upon execution of a written bond in the penal amount of \$1,000 conditioned that the customer shall comply with the requirements of a declared emergency. If service is disconnected because of a subsequent failure to comply, the bond of such customer shall be forfeited and the customer shall have no right to reinstatement of service except upon approval by the board and subject to such terms and conditions as the board shall impose.

(3) A decision of the city manager may be appealed to the mayor. The decision of the mayor thereon may be appealed to the board. A disconnection shall remain in effect until the appeal is heard and decided. A hearing by the mayor shall be conducted within forty-eight (48) hours of the time the request for hearing is made by the customer. A hearing by the board shall be conducted

within two (2) weeks of the time the request for hearing is made by the customer. All requests for a hearing or appeal shall be made to and through the city manager. (Ord. #1989-4, May 1989)

18-308. Leaks. (1) During a declared emergency when curtailment or prohibition of usage is in effect all leaks on the user's side of a meter shall be immediately repaired by the user on discovery or notice thereof. Failure of the user to do so shall result in those sanctions as provided in § 18-307.

(2) During a declared emergency when curtailment or prohibition of usage is in effect leaks on the city's distribution system side of all user meters shall be repaired immediately or, alternatively, those portions of the distribution system where such leaks are detected may be by-passed or taken out of service until the city is reasonably able to make such repairs. (as added by Ord. #2009-3, Feb. 2009)

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Construction, operation, and supervision.
- 18-403. Statement required.
- 18-404. Inspections required.
- 18-405. Right of entry for inspections.
- 18-406. Use of protective devices.
- 18-407. Unpotable water to be labeled.
- 18-408. Violations.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the City of Waverly for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(2) "Cross connection." Any physical arrangement whereby the public water supply is connected 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 ineffective check or back pressure valves, or because of any other arrangement.

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

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which normally contains sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1984 Code, § 8-301)

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

18-402. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, by-pass or interconnection is at all times under the direct supervision of the superintendent of the waterworks of Waverly, Tennessee. (1984 Code, § 8-302)

18-403. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the waterworks, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Health and Environment, and the operation and maintenance of same have been placed under the direct supervision of the city's superintendent of the water works. (1984 Code, § 8-303)

18-404. Inspections required. It shall be the duty of the superintendent of waterworks of the City of Waverly 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 superintendent of waterworks of the City of Waverly and as approved by the Tennessee Department of Health and Environment. (1984 Code, § 8-304)

18-405. Right of entry for inspections. The superintendent of the waterworks or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Waverly Public Water Supply for the purpose of inspecting the piping system or systems therein for cross-connections, auxiliary intakes, by-passes, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1984 Code, § 8-305)

18-406. Use of protective devices. Where the nature of use of the water supplied a premises by the City of Waverly 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 system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water 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 superintendent of the waterworks of the City of Waverly or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model and size. The method of installation of backflow protective devices shall be approved by the superintendent of the waterworks of the City of Waverly prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

The department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of the waterworks 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 only one unit has been installed and the continuance of service is critical, the superintendent of the waterworks shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel acceptable to the superintendent of the waterworks of the City of Waverly. (1984 Code, § 8-306)

18-407. Unpotable water to be labeled. The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1984 Code, § 8-307)

18-408. Violations. Any person who now has cross-connections, auxiliary intakes, by-passes or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with such provisions. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time to be allowed shall be designated by the superintendent of the waterworks. In addition to, or in lieu of any fines and penalties that may be judically assessed for violations of this chapter, the superintendent of the waterworks shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or interconnection has been discontinued. (1984 Code, § 8-308)

CHAPTER 5

REGULATIONS OF ANIMAL AND VEGETABLE FATS, OILS AND GREASE; SOIL; SAND; LINT AND OTHER COMMERCIAL LAUNDRY SOLIDS; AND PETROLEUM BASED LUBRICANTS

SECTION

18-501. Purpose.

18-502. Definition.

18-503. Fats, oils, grease, waste food interceptors.

18-504. Sand, soil, lubricating oil interceptors, and inflow abatement of rainwater.

18-505. Laundries.

18-506. Control plan.

18-507. Control equipment.

18-508. Solvents prohibited.

18-509. Alteration of control methods.

18-510. Enforcement and penalties.

18-511. Severability.

18-501. Purpose. The purpose of this ordinance is to control certain discharges into the publically-owned sewage collection and treatment system of the municipality ("system") which block and plug pipelines and interfere with normal operation of pumps and their controls and which contribute waste of a strength or form beyond the treatment capability of the system. The provisions of this ordinance shall be deemed regulations in addition to and supplemental of the provisions of chapter 2 title 18 of the Waverly Municipal Code. In the even of any conflict the more restrictive provision shall prevail. (as added by Ord. #2007-01, March 2007)

18-502. Definition. In the interpretation and application of this ordinance an "interceptor" is defined to be a device designed and installed to separate and retain for removal through automatic or manual means deleterious, hazardous or undesirable matter from normal waste water while permitting normal sewage waste to be discharged into the system by gravity. (as added by Ord. #2007-01, March 2007)

18-503. Fats, oils, grease, waste food interceptors. An interceptor shall be installed by a system user when it the opinion of the municipality it is necessary for the proper handling of liquid wastes generated by the user containing animal and vegetable fats, oils, and grease, and ground food wastes and solids; or other harmful ingredients in excessive amounts that impact the system. An interceptor shall not be required for a single family residence, but may be required for multiple family residences. All interceptors shall be of a

type and capacity approved by the municipality and shall be located so as to be readily and easily accessible for cleaning and inspection. (as added by Ord. #2007-01, March 2007)

18-504. Sand, oil, lubricating oil interceptors, and inflow abatement of rainwater. Owners and operators of car washes, truck washes, garages, service stations and other sources of sand, soil and lubricating oil discharges shall install effective sand, soil and lubricating oil interceptors. These interceptors will be sized to effectively remove sand, soil and lubricating oils at the expected flow rates. These interceptors will be cleaned on a regular basis to prevent impact on the system. Owners and operators whose interceptors are deemed to be ineffective by the municipality shall change the cleaning frequency and/or increase the size of the interceptors. Owners or operators of car and truck washing facilities shall prevent the inflow of rainwater into the system. (as added by Ord. #2007-01, March 2007)

18-505. Laundries. Commercial laundries shall be equipped with an interceptor with wire basket or similar device, removable for cleaning, that prevents passage into the system of one-half ($\frac{1}{2}$) inch or larger in size solids such as strings, rags, and buttons as are detrimental to the system. (as added by Ord. #2007-01, March 2007)

18-506. Control plan. (1) Owners constructing or renovating restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants, commercial laundries, dry cleaners, car washes, truck washes, garages, service stations, other facilities (collectively hereinafter referred to as "generators") shall submit a control plan that provides for effective control of the discharge of such animal and vegetable fats, oils, and grease, food wastes, sand, soil, lubricating oils, and lint and other commercial laundry solids (collectively hereinafter referred to as "objectionable discharges").

(2) Owners and operators of existing generators shall submit a control plan that will provide for effective control of objectionable discharges if and when the municipality determines that such discharges are causing excessive loading, plugging, damage or operational problems to structures or equipment of the system.

(3) Following approval of a control plan by the municipality the owner or user of facilities connected to the system must implement the control plan within a reasonable amount of time and thereafter continue to service and maintain any interceptor equipment in order to prevent adverse impact on the system. If the municipality determines that a use continues to impact the system then additional pretreatment measures may be required. (as added by Ord. #2007-01, March 2007)

18-507. Control equipment. The equipment or facilities installed to control objectionable discharges must be designed in accordance with the applicable plumbing code of the municipality and Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow or rainwater and shall be easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner and operator of the facility so as to prevent a stoppage of the system or the accumulation of objectionable discharges in the lines, pump stations and treatment plant thereof. If the municipality is required to clean out public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, or lack thereof, the owner and operator shall be liable to reimburse the municipality the cost of incurred for labor, equipment, materials and overhead to remedy the same. Nothing in this section shall be construed to prohibit or restrict any other remedy available to the municipality under this ordinance or state or federal law. The municipality retains the right to inspect and approve installation of control equipment. (as added by Ord. #2007-01, March 2007)

18-508. Solvents prohibited. The discharge into the system of degreasing or line cleaning products containing petroleum based solvents is prohibited. (as added by Ord. #2007-01, March 2007)

18-509. Alternation of control methods. The municipality reserves the right to require additional control measures if those taken by an owner, operator or user are insufficient to protect the system form interference due to the discharge of objectionable discharges. (as added by Ord. #2007-01, March 2007)

18-510. Enforcement and penalties. A person who violates these regulations shall be punished by a fine of fifty dollars (\$50.00) and shall pay the costs of the proceeding as ordinarily provided. Each day a violation shall be deemed a separate offense. A violator who persists in repeated violations shall be denied continued access to the system. (as added by Ord. #2007-01, March 2007)

18-511. Severability. Each section, subsection, paragraph sentence, and clause of this ordinance is declared to be separable and severable. (as added by Ord. #2007-01, March 2007)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the city and its inhabitants under such franchise as the board of mayor and aldermen shall grant.² The rights, powers, duties and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1984 Code, § 13-201)

¹Municipal code reference
Electrical code: title 12.

²The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS¹

SECTION

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the city and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.² (1984 Code, § 13-301)

¹Municipal code reference
Gas code: title 12.

²The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. FAIR HOUSING.
2. RESERVE OR SPECIAL FUND FOR CITY.
3. POLICIES AND PROCEDURES FOR REQUESTING EMERGENCY ASSISTANCE.
4. DISCRIMINATION AGAINST THE HANDICAPPED.

CHAPTER 1

FAIR HOUSING¹

SECTION

- 20-101. Definitions.
- 20-102. Purposes of law, construction; effect.
- 20-103. Unlawful housing practices.
- 20-104. Blockbusting.
- 20-105. Exemptions from housing provisions.
- 20-106. Provisions for enforcement.
- 20-107. Agency no defense in proceeding against real estate dealer.
- 20-108. Establishment of procedures for conciliation.
- 20-109. Findings of hearing committee; nature of affirmative action.
- 20-110. Investigations, powers, records.
- 20-111. Conspiracy to violate this chapter unlawful.
- 20-112. Conflicting laws repealed.
- 20-113. When effective.
- 20-114. Provisions severable.

20-101. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

(1) "Hearing committee" means The Board of Mayor and Aldermen of the City of Waverly. Said committee shall hear, make determinations, and issue determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(2) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by

¹Municipal code reference

Building, plumbing, electrical, gas and housing codes: title 12.

both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(3) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(4) "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, sex, age, handicap, or familial status, or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "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.

(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 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 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 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 of 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. (1984 Code, § 5-601, as amended by Ord. #1995-4, § 1(A), May 1995)

20-102. Purposes of law, construction; effect. The general purposes of this chapter are:

(1) To provide for execution, within the City of Waverly of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968 as amended.

(2) To safeguard all individuals within the city from discrimination in housing opportunities because of race, color, religion, national origin, age, handicap, familial status, 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.

Nothing contained in the chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, national origin or sex. (1984 Code, § 5-602, as amended by Ord. #1995-4, § 1(B), May 1995)

20-103. 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, age, handicap, familial status, 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 furnishing 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, age, handicap, familial status, 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, age, handicap, familial status, 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, age, handicap, familial status, 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, age, handicap, familial status, or sex or an intent to make such a limitation, specification, or discrimination.

(7) To offer, solicit, accept, use or retain a listing of 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, age, handicap, familial status, or sex.

(8) To otherwise deny to or withhold real property from an individual because of race, color, religion, national origin or sex. (1984 Code, § 5-603, as amended by Ord. #1995-4, § 1(C), May 1995)

20-104. 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, age, sex, handicap, familial status, or national origin of the owners or occupants in the block, neighborhood, or areas in which the real property is located.

(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. (1984 Code, § 5-604, as amended by Ord. #1995-4, § 1(D), May 1995)

20-105. Exemptions from housing provisions. (1) Nothing in § 20-103 shall apply:

(a) To the rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations.

(b) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family reside therein.

(c) To a landlord who refuses to rent to an unmarried male-female couple.

(2) A religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons unless such membership in such a religion is restricted on account of race, color, sex, age, handicap, familial status, or national origin.

(3) Single sex dormitory rental property shall be excluded from the provisions of this act which relate to discrimination based on sex. (1984 Code, § 5-605, as amended by Ord. #1995-4, § 1(E), May 1995)

20-106. Provisions for enforcement. (1) The violation of any of the provisions of this chapter shall subject the violator to a civil penalty in the amount of \$50.00 to be recovered in a civil action, provided that in the case of a continuing violation, the total penalty shall not exceed \$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 prohibitory 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. (1984 Code, § 5-606)

20-107. 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. (1984 Code, § 5-607)

20-108. 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 board of mayor and aldermen shall establish a hearing committee 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 committee 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 committee proceedings. Hearings open to the public may be initiated by the responding party at any time during the conciliation process. (1984 Code, § 5-608)

20-109. Findings of hearing committee; nature of affirmative action.

(1) If the hearing committee determines that the respondent has not engaged in an unlawful practice, the committee 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 committee deems proper.

(2) If the hearing committee 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 committee deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

- (a) Extension of 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 committee.
- (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 an unlawful practice including compensation for humiliation and embarrassment, and expenses incurred 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. (1984 Code, § 5-609)

20-110. 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 preserved 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 committee for an exemption from the application of the regulational order. If the committee finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (1984 Code, § 5-610)

20-111. Conspiracy to violate this chapter unlawful. It shall be an unlawful practice for a person, or for two 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.

(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 any order issued thereunder.

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder.

(4) To resist, prevent, impede, or interfere with the enforcing agent(s) hearing committee, or any of its members or representatives in the lawful performance of duty under this chapter. (1984 Code, § 5-611)

20-112. Conflicting laws repealed. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict. (1984 Code, § 5-612)

20-113. When effective. This chapter shall be effective 30 days after its passage; provided, that it shall cease to be effective upon receipt by the city of written notification from the United States Department of Housing and Urban Development (HUD) that HUD will not recognize this chapter, including any amendments thereto, to be substantially equivalent to the provisions of the Civil Rights Act of 1968 so as to require HUD to refer housing discrimination complaints to the City of Waverly, in accordance with federal law and regulations. (1984 Code, § 5-613)

20-114. Provisions severable. If any provision of this chapter or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect any other provisions or applications of the chapter which can be given effect without the invalid provision or application. To this end the provisions of this chapter are declared to be severable. The Waverly Board of Mayor and Aldermen hereby declares that it has adopted this chapter and each and every portion thereof notwithstanding any invalidity of any other portions. (1984 Code, § 5-614)

CHAPTER 2

RESERVE OR SPECIAL FUND FOR CITY

SECTION

- 20-201. Creation of reserve or special fund.
- 20-202. Carryover of unexpended balances of such reserve or special fund.
- 20-203. Authorization for city to participate in TML insurance pool.
- 20-204. Approval and adoption of agreement.
- 20-205. Contracting with TML insurance pool.
- 20-206. Approval of contracts and agreements by city attorney.

20-201. Creation of reserve or special fund. There is hereby created for the City of Waverly, Tennessee a reserve or special fund for the purpose of making payment of claims made against the City of Waverly, Tennessee and for the purpose of purchasing liability insurance to protect the city from any and all risks for which it may be liable. Such reserve or fund shall be maintained by the city from revenues raised and funds appropriated thereto by the board of mayor and aldermen from time-to-time. Checks shall be drawn thereon as in the case of the other funds of the city upon authorization and direction of the mayor for the payment of claims against the city and for the payment of premiums for liability insurance coverage for the city. (Ord. #1985-16, Dec. 1985)

20-202. Carryover of unexpended balances of such reserve or special fund. Unless otherwise appropriated by the board of mayor and aldermen any unexpended fund balance of such reserve or special fund at the end of any fiscal year of the City of Waverly shall be carried over in such reserve or special fund account to the succeeding fiscal year or years as a continuation of such reserve or special fund account for the purposes for which the same was created. (Ord. #1985-16, Dec. 1985)

20-203. Authorization for city to participate in TML insurance pool. The City of Waverly shall participate in the agreement presently existing among the City of Athens, Tennessee and the City of Hendersonville, Tennessee and such other municipalities as may be participating therein from time-to-time which cooperates in and creates, establishes and contracts with the TML insurance pool, a non-profit Tennessee corporation, organized to provide a method for political subdivisions of the State of Tennessee to obtain risk management, insurance, self insurance or any combinations thereof for any and all areas of liability or insurability. (Ord. #1985-16, Dec. 1985)

20-204. Approval and adoption of agreement. The form, content and provisions of the contract or agreement to establish the TML insurance pool

entered into in October of 1979 between the City of Athens, Tennessee and the City of Hendersonville, Tennessee is hereby approved. (Ord. #1985-16, Dec. 1985)

20-205. Contracting with TML insurance pool. The mayor is empowered and directed on behalf of the City of Waverly to enter into such contract or contracts, documents or other agreements with the TML insurance pool as may be required from time-to-time to effectuate the purposes of this chapter and for the purpose of providing the services of risk management and insurance for the City of Waverly in accordance with Tennessee Code Annotated, § 29-20-401, et seq., and to take such other steps as may be necessary or required to implement and carry out the intent of this chapter. (Ord. #1985-16, Dec. 1985)

20-206. Approval of contracts and agreements by city attorney. All contracts or other documents entered into by the mayor on behalf of the City of Waverly shall first be submitted to the city attorney for approval as to compliance with this chapter and for legality, and his certification and approval shall be endorsed thereon. (Ord. #1985-16, Dec. 1985)

CHAPTER 3

POLICIES AND PROCEDURES FOR REQUESTING
EMERGENCY ASSISTANCE¹

SECTION

- 20-301. Definitions.
- 20-302. Requests for emergency assistance.
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20-301. Definitions. (1) "Emergency assistance" shall mean fire-fighting, law enforcement, public works, emergency medical, civil defense, or any other emergency assistance that is provided by the City of Waverly, Tennessee or by any other local government as a responding unit of local government, or any combination of such forms of assistance, where the resources of the requesting local government are not adequate to handle an emergency at hand.

(2) "Local government" shall mean any incorporated city or town, any metropolitan government, any county, any utility district, any other regional or local district or authority or any electric cooperative, as established under the laws of the State of Tennessee.

(3) "Requesting party" shall mean a local government which requests emergency assistance.

(4) "Responding party" shall mean a local government which responds to a request for emergency assistance. (Ord. #1988-1, Jan. 1988)

20-302. Requests for emergency assistance. All requests for emergency assistance made by the city and all requests for such assistance to be rendered by the city shall be done, performed and authorized only by the mayor of the

¹State law reference

Tennessee Code Annotated, § 58-2-601 et seq., as amended by Public Acts 1988, Ch. 499, authorizes any municipality or other local governmental entity to go outside of its boundaries in response to a request for emergency assistance by another local government.

city, or in his absence by the city manager. No officer below the rank of the city manager shall be authorized to request or to authorize the rendering of emergency assistance by the city unless such authority is delegated to such person by the mayor. (Ord. #1988-1, Jan. 1988)

20-303. City requesting for emergency assistance; mayor to be in command. When the city is the requesting party, the mayor, and when the city is the responding party, the senior officer on the scene of the emergency of any other local government, shall be in full command of the emergency as to strategy, tactics and overall direction of the operation and such person shall direct the actions of the responding party by relaying orders to the senior departmental officer in command of the responding party. (Ord. #1988-1, Jan. 1988)

20-304. City responding to emergencies. When the city is the responding party all orders and other directions of the operation received from the senior officer in charge of the requesting party shall be directed through the senior departmental officer of the city in command on the scene and by him directed to the employees or other agents of the city performing the emergency assistance. (Ord. #1988-1, Jan. 1988)

20-305. Requirements for city to respond to emergency calls. No response to a request for emergency assistance shall be made by the city to any requesting party unless such requesting party has adopted appropriate policies and procedures which shall have been furnished to the city prior to the request being made. (Ord. #1988-1, Jan. 1988)

20-306. City not obligated to respond. The city shall be under no duty to respond to any request for emergency assistance from any requesting party and shall be under no duty to remain on the scene of any emergency for any length of time if it shall have responded to a request. Once on the scene of any emergency under lawful authority the personnel and equipment of the city may be withdrawn at any time at the discretion of the mayor, or in his absence by the city manager, or in their absence, by the senior departmental officer of the city on the scene and in command of the personnel and equipment of the city. (Ord. #1988-1, Jan. 1988)

20-307. Mayor to determine level of response by city. In determining the level of response to be made by the city to any request of a requesting party for emergency assistance, the mayor, or in his absence the city manager, shall make a reasonable appraisal of the emergency of the requesting party, consider the available resources of the requesting party or any other responding party, the available resources of the city, and such other factors as may be appropriate at the time. In responding to a request made by a requesting party the greatest

or maximum response that shall be permitted to be made by the city shall be fifty percent (50%) of the personnel and resources of the particular service or department of the city for which the emergency assistance is requested. (Ord. #1988-1, Jan. 1988)

20-308. Multiply requests at the same time. In cases where two (2) or more requests for emergency assistance are made at or about the same time to the city, the mayor, or the city manager in his absence, shall respond to the multiple requests by taking into consideration the relative degree of the emergency which shall exist in the jurisdiction of each requesting party. (Ord. #1988-1, Jan. 1988)

20-309. City not liable for damages. The city, when in the capacity of a requesting party, shall not be liable for damages to the equipment or personnel of a responding party in responding to the request by the city for emergency assistance, nor shall the city or its employees be liable for any damages caused by the negligence of the personnel of the responding party while enroute to or returning from the scene of an emergency within the city. (Ord. #1988-1, Jan. 1988)

20-310. City liable for damages occurring within the city. The city shall be liable for damages caused by the negligence of the employees of a responding party while on the scene and under the command of the senior departmental officer of the city on the scene of the emergency occurring within the city, as is provided for liability imposed on the city generally by Tennessee Code Annotated, § 29-20-101 et seq. (Ord. #1988-1, Jan. 1988)

20-311. City not liable for damages in jurisdiction of requesting party. When in the capacity of a responding party the city shall not be liable for any property damage or bodily injury caused by the negligence of its employees while at the actual scene of any emergency in the jurisdiction of a requesting party. (Ord. #1988-1, Jan. 1988)

20-312. Reimburse costs incurred when responding to emergency calls. In rendering emergency assistance pursuant to this chapter the requesting party shall have previously guaranteed to the city that the requesting party shall reimburse to the city its actual costs incurred by way of the wages or compensation as paid to employees of the city sent to the scene of the emergency in the jurisdiction of the requesting party and for the costs of all motor vehicle operating fuels and lubricants consumed by the equipment of the city used in rendering the emergency assistance. Likewise, the city shall reimburse to any responding party for its cost of wages or compensation of its personnel and for fuels and lubricants consumed in operating its equipment sent to the city in

response to a request for emergency assistance mde by the city. (Ord. #1988-1, Jan. 1988)

CHAPTER 4

DISCRIMINATION AGAINST THE HANDICAPPED

SECTION

- 20-401. City policy.
- 20-402. Filing of complaint.
- 20-403. Time within which to file complaint.
- 20-404. Investigation.
- 20-405. Nonapplicability to applications for employment.
- 20-406. Determination.
- 20-407. Record keeping.
- 20-408. Request for reconsideration.
- 20-409. Utilization of other remedies.
- 20-410. Intent of procedures.

20-401. City policy. It is the established policy of the City of Waverly, Tennessee in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (1984 Code, § 1-1401)

20-402. Filing of complaint. A complaint by any individual of discrimination under any program or activity of the city receiving federal financial assistance shall be filed in writing or verbally made and addressed to the city manager at the city hall and shall contain the name of the person filing the complaint, and shall briefly describe the alleged violation of the regulations under and/or the Rehabilitation Act of 1973, as amended. (1984 Code, § 1-1402)

20-403. Time within which to file complaint. Any complaint shall be filed within sixty (60) days after the complaining party becomes aware of the alleged violation and in no event later than one (1) year from the actual date of occurrence whether known to the complaining party or not. (1984 Code, § 1-1403)

20-404. Investigation. An investigation, as may be appropriate, shall be made following the filing of any complaint by the city manager or such person as he may designate. Such investigation shall be informal, but thorough, and all interested persons and their representatives, if any, shall be afforded an opportunity to submit relevant evidence concerning any complaint. (1984 Code, § 1-1404)

20-405. Nonapplicability to applications for employment. This chapter shall not be construed as intended to require that the city process any complaint from any applicant for employment. (1984 Code, § 1-1405)

20-406. Determination. A written determination as to the validity of the complaint and the description of any resolution thereof shall be issued by the city manager and a copy forwarded to the complainant no later than sixty (60) days after its filing. (1984 Code, § 1-1406)

20-407. Record keeping. The city manager as coordinator pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, shall maintain the files and records of the city relating to any complaints filed. (1984 Code, § 1-1407)

20-408. Request for reconsideration. A complainant may request a reconsideration of the case in instances where such complainant is dissatisfied with the resolution made by the city manager. Any request for reconsideration shall be made within thirty (30) days to the city manager stating the reasons therefor. (1984 Code, § 1-1408)

20-409. Utilization of other remedies. The right of any person to a prompt and equitable resolution of his or her complaint filed under this chapter shall not be impaired by reason of the pursuit by such complaining party of other remedies such as the filing of a Section 504 complaint with the Office of Revenue Sharing. Utilization of the grievance procedures as established by this chapter shall not be a prerequisite to the pursuit of any other remedies available to a complaining party. (1984 Code, § 1-1409)

20-410. Intent of procedures. The procedures established by this chapter shall be construed to protect the substantive rights of interested persons and shall be construed to meet appropriate due process standards and to assure that the city complies with Section 504 of the Rehabilitation Act of 1973, as amended, and the regulations promulgated thereunder. (1984 Code, § 1-1410)

ORDINANCE NO. 1994 - 5

AN ORDINANCE adopting and enacting a comprehensive codification and revision of the ordinances of The City of Waverly, Tennessee.

WHEREAS, some of the ordinances of The City of Waverly (the "City") 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 & Aldermen has caused the ordinances of the City of a general, continuing and permanent application or of a penal nature to be codified and revised and the same are now embodied in a code of ordinances to be known as the "Waverly Municipal Code of 1994;"

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR & ALDERMEN OF THE CITY OF WAVERLY, TENNESSEE, That:

Section 1. Ordinances codified. The ordinances of the City of a general, continuing, and permanent application

or of a penal nature are codified and revised in Titles 1 to 20, both inclusive, as set forth in Exhibit A attached hereto and made a part hereof by reference, and are ordained and adopted as the "Waverly Municipal Code of 1994" (hereinafter referred to as the "Municipal Code"). The Municipal Code and all of the provisions and terms thereof are hereby adopted.

Section 2. Ordinances repealed. All previous codifications of ordinances of the City and 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 hereof except as hereinafter provided in Section 3 and Section 4 hereof.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 shall not affect:

(a) 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 hereof;

(b) 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 the City's indebtedness;

(c) Any budget ordinance or ordinance making appropriation of any funds for municipal purposes.

(d) Any contract or obligation assumed by or in favor of the City;

(e) Any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system;

(f) Any administrative ordinances or resolutions not in conflict with or inconsistent with the provisions of the Municipal Code;

(g) The portion of any ordinance not in conflict with the Municipal Code which regulates speed, direction of travel,

passing, stopping, yielding, standing or parking on any specifically named public street or way;

(h) Any right or franchise granted by the City;

(i) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening or vacating any street or public way;

(j) Any ordinance establishing and prescribing the grade of any street;

(k) Any ordinance providing for local improvements and special assessments therefor;

(l) Any ordinance dedicating or accepting any plat or subdivision;

(m) Any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date hereof;

(n) Any zoning ordinance or amendment thereto or amendment to the Zoning Map; or

(o) Any ordinance annexing territory to the City.

Section 4. Continuation of proceedings under existing provisions. Insofar as the provisions of the Municipal Code are the same as those of ordinances existing and in force on the effective date hereof, said provisions as provided in the Municipal Code shall be considered to be in lieu thereof and as new enactments, but the provisions of all former codes and ordinance shall continue in force and effect until the final disposition of any proceedings thereunder.

Section 5. Penalty clause. (a) Unless otherwise specified, in the Code, including the various codes adopted by reference, when any act is prohibited or made or declared to be unlawful or to be an offense or misdemeanor against the City, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision or the commission or omission of any such act shall be punishable by a penalty of not more than (\$500. 00) for each separate violation; provided, however, in the case of moving traffic violations the penalty shall be not more than \$50. Imposition

of any such penalty shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or where otherwise permitted under the provisions of the Code or other applicable law.

(b) When a person fined or assessed a penalty by the Municipal Court for violating a provision of the Code defaults in payment of such fine or penalty, he or she may be required to perform hard labor within or without the City Workhouse. Such hard labor shall continue, to the extent that his or her physical condition shall permit, until the penalty is discharged by payment or until the penalty is discharged by being credited with the sums as may be prescribed for each day's hard labor.

(c) For each day's hard labor performed by a person convicted of a violation there shall be credited upon his or her fine or penalty assessed and upon any additional costs as imposed, the sum of \$25.

(d) Each day that a violation continues shall constitute a separate offense. (as amended by Ord. #1997-10, July 1997)

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 the Municipal 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 & 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 thereafter affecting the Municipal Code shall be adopted as amending, adding or deleting, by numbers, specific chapters or sections of the Municipal 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 the Municipal 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 number of those ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is added 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 the Municipal Code, the provision which establishes the higher standard for the promotion and protection of the public health, safety and welfare shall prevail.

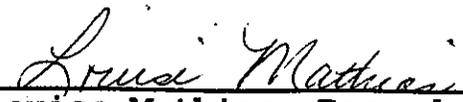
Section 9. Code available for public use. A copy of the Municipal Code shall be kept available in the Recorder's office for public use and inspection at all reasonable times.

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.

PUBLIC HEARING NOTICE PUBLISHED:	AUG 26, 1994
PUBLIC HEARING HELD:	SEP 12, 1994
Passed on 1st reading:	<u>OCT 10 1994</u>
AMENDED BY SUBSTITUTION :	Nov. 14, 1994
Passed on 2nd reading:	<u>NOV. 14 1994</u>
AS AMENDED	
Approved by Mayor:	<u>NOV. 14 1994</u>


 Jess S. Bowen Jr., Mayor

Attest:


 Louise Mathias, Recorder