THE CARTHAGE MUNICIPAL CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

December 2000

Change 4, June 27, 2013

TOWN OF CARTHAGE

MAYOR

Sebra Hodge

VICE MAYOR

L.C. Grisham

ALDERMEN

Phillip Brooks

Randy Dennis

Pat Nixon

Barbara Kannapel

Nancy Woodard

CITY RECORDER

Sara Davenport

CITY ATTORNEY

David Bass

PREFACE

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the town agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

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

> Steve Lobertini Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

It shall be the duty of the Mayor . . .

to examine all bills passed before affixing his signature, and should any such not meet his approval, he shall, at the next regular meeting of the Council, return the same with his objections in writing, and no law so vetoed shall go into effect unless the same be again passed by a two-thirds (2/3) majority vote of the Council present; no ordinance shall become law unless the same shall be considered on three (3) separate days and be passed by approval on all three (3) days by majority of the members present unless by unanimous consent of the Council earlier action is deemed necessary and until the same shall have been signed by the Mayor, unless he fails to veto the same by the next regular meeting, and in case of such failure, the same shall become a law without his signature; the Mayor shall be the chief executive officer in charge of supervision of all officers of the municipality and see that all laws or ordinances be enforced; ... (Charter § 11)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. TOWN COUNCIL.
- 2. MAYOR.
- 3. CITY RECORDER.
- 4. CODE OF ETHICS.

CHAPTER 1

TOWN COUNCIL

SECTION

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

1-101. <u>Time and place of regular meetings</u>.² The town council shall hold regular monthly meetings at 7:00 P.M. on the first Thursday of each month at the town hall. (1983 Code, § 1-101, modified)

1-102. <u>Order of business</u>. At each meeting of the town council, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

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

(3) Approval of minutes of the previous meeting by the city recorder, and approval or correction.

- (4) Grievances from citizens.
- (5) Communications from the mayor.

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 reference

Town council meetings: § 10.

(6) Reports from committees, members of the town council, and other officers.

- (7) Old business.
- (8) New business.
- (9) Adjournment. (1983 Code, § 1-102, modified)

1-103. <u>General rules of order</u>. The rules of order and parliamentary procedure contained in <u>Robert's Rules of Order</u>, <u>Newly Revised</u>, 1990 (9th) Edition, shall govern the transaction of business by and before the town council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1983 Code, § 1-103, modified)

MAYOR¹

SECTION

- 1-201. Generally supervises town's affairs.
- 1-202. Executes town's contracts.

1-201. <u>Generally supervises town's affairs</u>. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1983 Code, § 1-201)

1-202. <u>Executes town's contracts</u>. The mayor shall execute all contracts as authorized by the town council. (1983 Code, § 1-202)

¹Charter references: Compensation: § 8(a). Duties: § 11. Election and eligibility: § 3. General powers succession: § 2. Oath of office: § 5. Terms of office: § 4. Vacancy in office: § 6.

<u>CITY RECORDER¹</u>

SECTION

1-301. To be bonded.
 1-302. To keep minutes, etc.
 1-303. To perform general administrative duties, etc.

1-301. <u>To be bonded</u>. The city recorder shall be bonded with such surety as may be acceptable to the town council. (1983 Code, § 1-301, modified)

1-302. <u>To keep minutes, etc</u>. The city recorder shall keep the minutes of all meetings of the town council and shall preserve the original copy of all ordinances in a separate ordinance book. (1983 Code, § 1-302, modified)

1-303. <u>To perform general administrative duties, etc</u>. The city recorder shall perform all administrative duties for the town council and for the town which are not assigned by the charter, this code, or the town council to another corporate officer. The city recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide. (1983 Code, § 1-303, modified)

¹Charter reference Appointment: § 8.

CODE OF ETHICS¹

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

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

Campaign finance: <u>Tennessee Code Annotated</u>, title 2, ch. 10.

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

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

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

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

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

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

1-401. <u>Applicability</u>. This chapter is the code of ethics for personnel of the Town of Carthage. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the town. The words "municipal" and "town," or "Town of Carthage" include these separate entities. (as added by Ord. #353, June 2007)

1-402. <u>Definition of "personal interest</u>." (1) For purposes of \S 1-403 and 1-404, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #353, June 2007)

1-403. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (as added by Ord. #353, June 2007)

1-404. <u>Disclosure of personal interest in non-voting matters</u>. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the

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

Change 3, September 4, 2008

official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #353, June 2007)

1-405. <u>Acceptance of gratuities, etc</u>. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the town:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #353, June 2007)

1-406. <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #353, June 2007)

1-407. <u>Use of municipal time, facilities, etc.</u> (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the town council to be in the best interests of the town. (as added by Ord. #353, June 2007)

1-408. <u>Use of position or authority.</u> (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the town.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the town. (as added by Ord. #353, June 2007)

1-409. <u>**Outside employment**</u>. A full-time employee of the town may not accept any outside employment without written authorization from the mayor. (as added by Ord. #353, June 2007)

Change 3, September 4, 2008

1-410. <u>Ethics complaints</u>. (1) The city attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #353, June 2007)

1-411. <u>Violations</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to censure by the town council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #353, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT

CHAPTER

1. CITY JUDGE.

- 2. COURT ADMINISTRATION.
- 3. WARRANTS, SUMMONSES AND SUBPOENAS.
- 4. BONDS AND APPEALS.
- 5. COURT COSTS.

CHAPTER 1

CITY JUDGE¹

SECTION

3-101. City judge.

3-101. <u>City judge</u>. The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1983 Code, § 1-501)

¹Charter reference Judicial authority of mayor; town council may appoint city judge: § 12.

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.

3-201. <u>Maintenance of docket</u>. 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 offenses; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1983 Code, § 1-502)

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

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases.

In addition to the foregoing costs, mileage at a rate set by resolution by the board of mayor and aldermen shall be charged when a prisoner must be transported to and out of the county and shall be assessed as part of the costs of the cause and figured in the bill of costs, along with any jail fees, and paid as a part of the bill of costs by anyone found guilty of a misdemeanor. (1983 Code, § 1-508, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the town council a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1983 Code, § 1-511)

¹State law reference <u>Tennessee Code Annotated</u>, § 8-21-401.

3-204. 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. (1983 Code, § 1-512)

3-205. <u>Trial and disposition of cases</u>. Every person charged with violating a town 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. (1983 Code, \S 1-506)

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Issuance of subpoenas.

3-301. <u>Issuance of arrest warrants</u>.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating town ordinances. (1983 Code, \S 1-503)

3-302. <u>Issuance of summonses</u>. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1983 Code, \S 1-504)

3-303. <u>Issuance of subpoenas</u>. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1983 Code, § 1-505)

¹State law reference

For authority to issue warrants, see <u>Tennessee Code Annotated</u>, title 40, chapter 6.

BONDS AND APPEALS

SECTION

- 3-401. Appearance bonds authorized.
- 3-402. Appeals.
- 3-403. Bond amounts, conditions, and forms.

3-401. <u>Appearance bonds authorized</u>. 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 protective custody. (1983 Code, § 1-507)

3-402. <u>Appeals</u>. 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 (1983 Code, 1-509)

3-403. <u>Bond amounts, conditions, and forms</u>. 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.

An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1983 Code, § 1-510)

¹State law reference <u>Tennessee Code Annotated</u>, § 27-5-101.

COURT COSTS

SECTION

3-501. Court costs.

3-501. <u>Court costs</u>. The following costs and fines will be levied as follows:

<u>Violation</u>	Cost	<u>Fines</u>	<u>Total</u>	
Public intoxication	\$65.28	5.00	\$70.28	
No drivers license	\$92.31	\$10.00	\$102.31	
Vio. of Reg. law	\$92.31	\$10.00	\$102.31	
Tail lights out	\$92.31	\$10.00	\$102.31	
Causing unnecessary noise	\$92.31	\$10.00	\$102.31	
Ran red light	\$92.31	\$10.00	\$102.31	
Ran stop sign	\$92.31	\$10.00	\$102.31	
Loud muffler	\$92.31	\$10.00	\$102.31	
Speeding-50 MPH & under	\$92.31	5.00	97.31	
Speeding-50 MPH & over	\$92.31	\$10.00	\$102.31	
Reckless driving-1st offense	\$92.31	\$25.00	\$117.31	
Reckless driving-2nd offense	\$92.31		Court appearance mandatory	
Improper passing	\$92.31	\$10.00	\$102.31	
Anti-noise regulation	\$92.31	\$10.00	\$102.31	
Parking violations	\$92.31	5.00	\$97.31	
Prowling	\$92.31	5.00	\$97.31	
Disorderly conduct	\$92.31		Court appearance mandatory	
Open alcoholic beverage	\$92.31	5.00	\$97.31	
Possession alcoholic beverage Under Age of 21	\$92.31	\$ 5.00	\$97.31	
Wrong way on one way street	\$92.31	\$10.00	\$102.31	

COURT COST AND FINES

Change 1, June 24, 2004

Failure to appear	\$92.31	\$10.00	\$102.31
Contempt of court	\$92.31	\$ 5.00	\$97.31
Animal control offenses	\$92.31	Court appearance mandatory	

Note: Always check speeding citation for the M.P.H. listed in order to apply the
correct fine as listed above50 M.P.H. and under \$5.00
50 M.P.H. and over \$10.00

Note: The Defendant shall pay the postage for certified letter when applicable.

Litigation Tax of \$13.75 to be added to the total when defendant appears in court and ordered to pay court cost or the court cost and fine on moving violations. (Defendant does not pay litigation tax when paying fine and cost before the set court date set for the citation.) (Ord. #239, May 1990, modified, and amended by Ord. #327, June 2004)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

- 1. SOCIAL SECURITY.
- 2. PERSONNEL POLICY.
- 3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
- 4. DRUG AND ALCOHOL TESTING POLICY.

CHAPTER 1

SOCIAL SECURITY

SECTION

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

4-101. <u>Policy and purpose as to coverage</u>. It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the town, 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 town shall take such action as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-701)

4-102. <u>Necessary agreements to be executed</u>. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1983 Code, § 1-702)

4-103. <u>Withholdings from salaries or wages</u>. Withholdings from the salaries or wages of employees and officials for the purpose provided in § 4-101 of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1983 Code, § 1-703)</u>

4-104. <u>Appropriations for employer's contributions</u>. There shall be appropriated from available funds such amounts at such times as may be

required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1983 Code, § 1-704)

4-105. <u>Records and reports</u>. The city recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1983 Code, § 1-705, modified)

PERSONNEL POLICY

SECTION

4-201. Personnel policy.

4-202. Employees.

4-203. Benefits.

4-204. Grievance procedures.

4-205. State and federal personnel mandates.

4-206. Miscellaneous personnel policies.

4-207. Dismissal.

4-208. Personal policy changes.

4-201. <u>**Personnel policy**</u>. (1) <u>**Purpose**</u>. The purpose of this chapter is to establish a system of personnel administration in the Town of Carthage, Tennessee.

(2) <u>At-will employer</u>. The Town of Carthage, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contract right to any job for any employee.

(3) <u>Coverage</u>. The following personnel are not covered by this policy, unless otherwise provided:

(a) All elected officials.

(b) Members of appointed boards and commissions.

(c) Consultants, advisors, and legal counsel rendering temporary professional service.

(d) The city attorney.

(e) Independent contractors and/or contract employees.

(f) Volunteer personnel.

(g) The city judge.

All other employees of the municipal government are covered by this personnel policy.

4-202. <u>Employees</u>. (1) <u>Full-time</u>. Full-time employees are individuals employed by the municipal government who normally work forty (40) hours per week.

(2) <u>Part-time</u>. Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than 8 hours a day and may work fewer than thirty (30) hours per week or who are temporary and/or seasonal employees.

(3) <u>Rate of pay</u>. Each employees rate of pay is set by the council. This rate may vary based on the job which you are hired to do, skills you have, responsibility, experience and other factors required by the job.

(4) <u>Probationary period</u>. All new employees of the Town of Carthage are hired on a probationary basis for the first six months of employment. During this trial period, the town and the employee evaluate whether or not a permanent employment relationship should be established.

(5) <u>Working hours</u>. Work hours vary depending on job functions. Daily work will be assigned by your supervisor who will define your specific starting and finishing time. Scheduled breaks will be limited to 10 minutes. Please check with your supervisor for exact work schedules. From time to time, the town may require a slight modification in your starting and finishing time to accommodate work requirements. Wasting time by parking, visiting, or loafing and/or engaging in horseplay or fighting can result in disciplinary action. Our business is dependent upon citizens being able to reach us on the telephone, therefore, personal calls should be limited in length.

(6) <u>Attendance</u>. Regular and prompt attendance is essential for the success of our business. Absenteeism and tardiness disrupt work schedules of others. Regular attendance is expected of all employees. If you expect to be absent from work, you must notify your supervisor prior to the beginning of your daily scheduled working hours. Unanticipated absences of an emergency nature (accident, sudden illness, etc.) must be reported to your supervisor within 2 hours after the beginning of the work day.

Employees called to emergency work of any kind are expected to respond promptly.

Absences from work for any reason, which the town does not approve, will be reflected in your work record. Too many absences of any kind, including repetitive or prolonged absences, will result in disciplinary action. Three absences (consecutive work days) without sufficient notice to the town will be reason to believe that the employee has resigned and a doctors statement with satisfactory reasons shall be required to prevent termination of employment.

4-203. <u>Benefits</u>. (1) <u>Holidays</u>. Generally, full-time employees are allowed a day off with pay on the following holidays:

- (a) New Years Day
- (b) Martin Luther King Day
- (c) President's Day
- (d) Memorial Day
- (e) Independence Day
- (f) Labor Day
- (g) Veteran's Day
- (h) Thanksgiving Day
- (i) Christmas Day
- (j) Employee's Birthday

Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday. Any employee required to work on a regular holiday shall be granted 8 hours off on an alternate day approved by the supervisor or an additional 8 hours pay for the holiday.

(2) <u>Vacation leave</u>. All full-time employees of the municipality shall accrue vacation leave monthly upon the completion of each calendar month of service. Vacation leave will begin to accrue as of the first full month of employment, but cannot be taken until the employee has completed 12 months of employment. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum accrual as shown in the table below:

Years of Service	Maximum Accrual
1	5 Days
2	10 Days
5	15 Days

Vacation leave exceeding the maximum accrual limit shall be forfeited.

Vacation leave shall be taken at a time approved by the employee's supervisor. Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed.

It is compulsory to take at least one week of earned vacation per year.

All vacation schedules must be approved in advance by your supervisor and the mayor to prevent excessive overtime.

An employee may sell one week of accrued vacation leave during a calendar year.

Vacation time must be taken by the end of each calendar year.

(3) <u>Sick leave</u>. All full-time employees shall accumulate 8 hours sick leave with pay for each month of work completed for the municipality. Sick leave may be granted for any of the following reasons:

(a) Personal illness or physical incapacity resulting from causes beyond the employee's control.

(b) Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees.

(c) Medical, dental, optical or other professional treatments or examinations.

(d) Acute illness of a member of the employee's immediate family.

(e) Three (3) consecutive days of sick leave may require a doctor's statement.

(f) An employee may accrue up to 90 days of sick leave, however, they are not reimbursable upon separation of employment.

(4) <u>Bereavement pay</u>. An employee who is required to be absent from work in order to arrange and/or attend the funeral of an immediate family member, will be given up to three days off with pay at straight time hourly rate subject to these guidelines:

(a) Immediate family consists to spouse, child, mother, father, brother, sister, mother-in-law, father-in-law, grandfather, grandmother, step-father, step-mother, grandchild, step-child.

(b) One of the three days must be the day of the funeral if during the scheduled work week.

(c) One day bereavement pay may be given an employee to attend the funeral of a relative if on a regular scheduled work day.

(d) An employee may be given time off without pay to attend the funeral of a non-relative..

(e) Proof of dates and attendance of the funeral may be required.

4-204. <u>**Grievance procedures**</u>. (1) <u>Grievance policy</u>. The purpose of this section is to prescribe uniform disposition procedures of grievance presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodation under Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction by written notice. Once this is done, the following steps are to be taken.

<u>Step 1</u> .	Discuss the problem with the immediate supervisor. If
	satisfaction is not obtained, the grievance is advanced to the
	second step.
<u>Step 2</u> .	Discuss the problem with the mayor. If the grievance is not
	resolved, it is advanced to the third step along with all
	documentation.
<u>Step 3</u> .	Discuss the problem with the appropriate department
	committee.
Stop 1	The council decision is the last stop in the process. The

<u>Step 4</u>. The council decision is the last step in the process. The decision of the council is final and binding to all parties involved.

4-205. <u>State and federal personnel mandates</u>. (1) <u>Discrimination</u> <u>prohibited</u>. The municipality is an equal opportunity employer. Except as

otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964 - 42 U.S.C. SS2000e-2000-15; Equal Pay Act 1963 - 20 U.S.C. S206(d); Age Discrimination in Employment Act - 29 U.S.C. SS621 <u>et</u>. <u>seq</u>.; Americans With Disabilities Act - 42 U.S.C. SS506 <u>et seq</u>.)

(2) <u>Sexual harassment prohibited</u>. Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's 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 pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the mayor or council. Within the limits of the Tennessee Open Records Law, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination.

(3) <u>Occupational safety and health</u>. The municipality shall provide safety and health protection for all employees in accordance with Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. SS656 <u>et seq</u>.) and the Tennessee OSHA Law (<u>Tennessee Code Annotated</u>, § 50-3-101 <u>et seq</u>.).

(4) <u>Overtime compensation</u>. The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 C.F.R. SS553.1 <u>et seq</u>.).

(5) <u>Military leave/veterans' re-employment</u>. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding 15 working days in any one calendar year (<u>Tennessee Code Annotated</u>, § 8-33-109). Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with Veterans' Reemployment Rights (38 U.S.C. S202-2-16) and the Tennessee Military Leave Act (<u>Tennessee Code Annotated</u>, § 8-33-101 <u>et seq</u>.).

(6) <u>Family and medical leave</u>. If the municipality has 50 or more employees on the payroll an eligible employee (one who has been employed at least 12 months and worked at least 1250 hours in the preceding 12 months) will be provided 12 calendar weeks of unpaid leave for medical conditions of the employee or his/her family members in accordance with the Family and Medical Leave Act (P.L. 103-3).

(7) <u>Commercial driver's license</u>. All employees that drive

(a) A vehicle with a gross weight of more than 26,000 pounds;

(b) A trailer with a gross weight of more than 10,000 pounds;

(c) A vehicle designed to transport more than 15 passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee commercial driver's license in accordance with <u>Tennessee Code Annotated</u>, § 55-50-101 <u>et seq</u>. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(8) <u>Employee drug testing</u>. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199). Other employees are subject to drug testing in accordance with the drug testing policy of the municipality. The municipality's procedures for drug testing can be found in Title 4 Chapter 4 of this municipal code.

(9) <u>Residence requirements</u>. No person "currently employed" by the municipality can be dismissed or penalized "solely on the basis of non-residence" (<u>Tennessee Code Annotated</u>, § 8-50-107). However, all future employees shall be required to live within Smith County.

(10) <u>Employee right to contact elected officials</u>. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter (<u>Tennessee Code Annotated</u>, § 8-50-601--604).

(11) <u>Civil leave</u>. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty (<u>Tennessee Code Annotated</u>, § 22-4-108).

(b) To answer a subpoena to testify for the municipality.

(12) <u>Voting</u>. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with <u>Tennessee Code Annotated</u>, § 2-1-106.

(13) <u>Political activity</u>. Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election (<u>Tennessee</u> <u>Code Annotated</u>, § 7-51-1501).

(14) <u>Travel policy</u>. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy, Resolution No. 92-010, as required by <u>Tennessee Code Annotated</u>, § 6-54-901.

4-206. <u>Miscellaneous personnel policies</u>. (1) <u>Outside employment</u>. No full-time employee of the municipality may accept any outside employment without written authorization from the mayor. If an agreement cannot be reached between the mayor and employee, the employee may appeal it before the council for authorization.

(2) <u>Use of municipal time, vehicles, facilities, etc</u>. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group or organization other than the municipality. Decisions about aid to charitable, civic or other organizations will be made exclusively by the governing body.

The misuse or unnecessary roughness of any equipment, vehicles, or other property belonging to the city shall lead to suspension or immediate dismissal.

Employees shall not repair, clean up or do maintenance on any private vehicles or equipment on city time. The normal maintenance and minor repairs required on city vehicles and equipment shall be performed only by authorized personnel.

(3) <u>Accepting of gratuities</u>. No employee shall accept money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipalities business.

(4) <u>Misconduct</u>. The following are some acts of misconduct that may result in disciplinary actions that may consist of one or more of the following: oral warning, written warning, dismissal.

- (a) Neglect or inattention to duty.
- (b) Sleeping while on duty.
- (c) Excessive absenteeism or tardiness.

(d) Failure to observe working hours schedules (starting time, quitting time, rest and meal periods).

(e) Unauthorized stops and routes made by city employees during the performance of their jobs.

(f) Drinking any kind of intoxication liquor or under the influence of narcotics while on duty.

(g) Intoxication while on duty.

(h) Insubordination. Disobedience of orders, refusal to carry out instructions, directions, and/or assignments from supervisors.

(i) Willingly making a false official report.

(j) Receiving or accepting any fee, bribe, reward or gift of any kind from any person.

(k) Failure to take up grievances through the proper channels.

(l) Disclosing confidential or proprietary information concerning citizens, other city employees or the city to any unauthorized person.

(m) Stealing, whether it is city property or property belonging to employees or others.

(n) Deliberately abusing, destroying, damaging, or defacing city property, tools or equipment.

(o) Fighting or provoking a fight, negligence or horseplay resulting in injury, repeated or gross violations of safety rules.

(p) Unauthorized disposal or appropriation of any city property.

(q) Falsification of city records (including falsifying reasons for medical leaves).

NOTE: DURING THE PROBATIONARY PERIOD, VIOLATIONS OF THESE MISCONDUCTS MAY RESULT IN DISCHARGE.

4-207. <u>Dismissal</u>. (1) <u>At-will</u>. Employees may be dismissed for cause, no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter.

4-208. <u>**Personnel policy changes**</u>. Nothing in this resolution may be construed as creating a property right or contract right to the job for any employee. The provisions of this policy may be unilaterally changed by resolution of the governing body from time to time as the need arises.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.
- 4-308 4-316. Deleted.

4-301. <u>Title</u>. This section shall provide authority for establishing and administering the occupational safety and health program plan for the employees of Town of Carthage. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-302. <u>Purpose</u>. The Town of Carthage, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

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

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling existing or potential hazards; and

(d) Train managers, supervisors and employees to understand and deal with worksite hazards.

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

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

(4) Consult with the state commissioner of labor and workforce development with regard to the adequacy of the form and content of records.

(5) Consult with the state commissioner of labor and workforce development, as appropriate, regarding safety and health problems which are

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-303. <u>Coverage</u>. The provisions of the occupational safety and health program plan for the employees of the Town of Carthage shall apply to all employees of each administrative department, commission, board, division or other agency of the Town of Carthage whether part-time or full-time, seasonal or permanent. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-304. <u>Standards authorized</u>. The occupational safety and health standards adopted by the Town of Carthage are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.¹ (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-305. <u>Variances from standards authorized</u>. The Town of Carthage may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2 as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the Town of Carthage shall notify or serve notice to employees, their designated representatives or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the Town of Carthage shall be deemed sufficient notice to employees. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

¹State law reference <u>Tennessee Code Annotated</u>, title 50, chapter 3.

Change 4, June 27, 2013

4-306. <u>Administration</u>. For the purposes of this chapter, the Town of Carthage Public Works Supervisor is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop and administer the Town of Carthage OSHA Program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Plan. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-307. <u>Funding the program</u>. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Carthage. (Ord. #297, Nov. 1999, as replaced by Ord. #319, June 2003, and Ord. #382, Feb. 2012)

4-308 – **4-316.** <u>**Deleted**</u>. (Ord. #297, Nov. 1999, as deleted by Ord. #319, June 2003)

DRUG AND ALCOHOL TESTING POLICY

SECTION

- 4-401. Purpose.
- 4-402. Scope.
- 4-403. Consent form.
- 4-404. Compliance with substance abuse policy.
- 4-405. General rules.
- 4-406. Drug testing.
- 4-407. Alcohol testing.
- 4-408. Education and training.
- 4-409. Consequences of a confirmed positive drug and/or alcohol test result and/or verified positive drug and/or alcohol test result.
- 4-410. Voluntary disclosure of drug and/or alcohol use.
- 4-411. Exceptions.
- 4-412. Modification of policy.

4-401. Purpose. The Town of Carthage recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the Town of Carthage to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the Town of Carthage are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the Town of Carthage has adopted this drug and alcohol testing policy effective January 1, 1996. This policy complies with the: Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment,

transfer, reasonable suspicion, post-accident (post-incident), random, return-toduty, and follow-up.

It is the policy of the Town of Carthage that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

(1) Being on duty or performing work in or on town property while under the influence of drugs and/or alcohol;

(2) Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on town property;

(3) Refusing or failing a drug and/or alcohol test administered under this policy;

(4) Providing an adulterated, altered, or substituted specimen for testing;

(5) Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and

(6) Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the town shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the town's policy regarding drugs and/or alcohol; and the availability of counseling. The mayor has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All Town of Carthage property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. (Ord. #268, Dec. 1995)

4-402. <u>Scope</u>. Certain aspects of this policy may apply to full-time, parttime, temporary, and volunteer employees of the Town of Carthage. The policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the Town of Carthage. (Ord. #268, Dec. 1995)

4-403. <u>Consent form</u>. Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), mayor or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the town's drug and alcohol testing policy.

The consent form shall set forth the following information:

(1) The procedure for confirming and verifying an initial positive test result;

(2) The consequences of a verified positive test result; and

(3) The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. (Ord. #268, Dec. 1995)

4-404. <u>Compliance with substance abuse policy</u>. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination. (Ord. #268, Dec. 1995)

4-405. <u>General rules</u>. These are the general rules governing the Town of Carthage's drug and alcohol testing program:

(1) Town employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.

(2) Town employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on town property.

(3) All Town of Carthage property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. Town property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

(4) Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure to so inform the town subjects the employee to disciplinary action up to and including termination for the first offense. The town will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act. (Ord. #268, Dec. 1995)

4-406. <u>**Drug testing**</u>. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

(1) <u>Types of tests</u>. (a) <u>Pre-employment</u>. All applicants for employee status for positions requiring a CDL [or for a position in the fire department, police department, gas department, and transit department], who have received a conditional offer of employment with the Town of Carthage, must take a drug test before receiving a final offer of employment.

(b) <u>Transfer</u>. Employees transferring to the [fire department, police department, gas department, and transit department] and/or another position within the town that requires a commercial driver's license (CDL) shall undergo drug testing.

Post-accident/post-incident testing. Following (c) anv workplace accident (incident) determined by supervisory personnel of the Town of Carthage to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test. Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of Carthage reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(i) <u>Post-accident (post-incident) testing for ambulatory</u> <u>employees</u>. Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Carthage to the designated urine specimen collection site within 32 hours following the accident. (Note: DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Carthage and shall result in administrative action up to and including termination of employment.

(ii) Post-accident (post-incident) testing for injured employees. An affected employee who is seriously injured, nonambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Carthage appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Carthage or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

(d) <u>Testing based on reasonable suspicion</u>. A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Carthage making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(e) <u>Random testing</u>. Employees of the Town of Carthage possessing or wishing to obtain a commercial driver's license (CDL) are subject to random urine drug testing, however, it shall be the Town of Carthage's policy to have random urine drug testing of all town employees. It is the policy of the Town of Carthage to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the Town of Carthage may omit that employee from that random testing or await the employee's return to work.

(f) <u>Return-to-duty and follow-up</u>. Any employee of the Town of Carthage who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Followup test will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) <u>Prohibited drugs</u>. All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the mayor. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):¹

- (a) Amphetamines,
- (b) Marijuana,
- (c) Cocaine,
- (d) Opiates,
- (e) Phencyclidine (PCP),
- (f) Alcohol, and
- (g) Depressants.

The town may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(3) <u>Drug testing collection procedures</u>. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the Town of Carthage to a drug test collection facility selected by the Town of Carthage (see Appendix B),² where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Carthage to perform the analysis on collected urine samples.

(4) <u>Drug testing laboratory standards and procedures</u>. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).³

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within 32 hours where proper collection procedures will be administered.

¹Appendix A to the drug and alcohol testing policy is of record in the office of the city recorder.

²Appendix B to the drug and alcohol testing policy is of record in the office of the city recorder.

³Appendix C to the drug and alcohol testing policy is of record in the office of the city recorder.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the mayor.

(5) <u>Reporting and reviewing</u>. The Town of Carthage shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).¹

(a) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the Town of Carthage.

(b) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(c) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the mayor, and the employee.

(d) Neither the Town of Carthage, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (Ord. #268, Dec. 1995, modified)

4-407. <u>Alcohol testing</u>. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test.

¹Appendix C to the drug and alcohol testing policy is of record in the office of the city recorder.

Employees and applicants may be required to submit to alcohol testing under six separate conditions:

(1) <u>Types of tests</u>. (a) <u>Post-accident/post-incident testing</u>. Following any workplace accident (incident) determined by supervisory personnel of the Town of Carthage to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

(i) <u>Post-accident (post-incident) testing for ambulatory</u> <u>employees</u>. Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Carthage to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within two hours. No employee shall consume alcohol prior to completing the postaccident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Carthage and shall result in administrative action up to and including termination of employment.

(ii) <u>Post-accident (post-incident) testing for injured</u> <u>employees</u>. An affected employee who is seriously injured, nonambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Carthage appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Carthage or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

(b) <u>Testing based on reasonable suspicion</u>. An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Carthage making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor within eight hours of the decision to test and before the results of the tests are received by the department.

(c) <u>Random testing</u>. Employees of the Town of Carthage possessing or wishing to obtain a commercial driver's license (CDL) are subject to random alcohol testing. However, it shall be the Town of Carthage's policy to have random alcohol testing of all town employees. It is the policy of the Town of Carthage to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the Town of Carthage may omit that employee from that random testing or await the employee's return to work. (d) <u>Return-to-duty and follow-up</u>. Any employee of the Town of Carthage who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

(2) <u>Alcohol testing procedures</u>. All breath alcohol testing conducted for the Town of Carthage shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (Note: A town's own public safety department cannot do this testing unless the test is required because of a traffic accident (incident).) Alcohol testing is to be performed by a qualified technician as follows:

(a) <u>Step one</u>. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to step two.

(b) <u>Step two</u>. Fifteen minutes shall be allowed to pass following the completion of step one above. Before the confirmation test or step two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, the step and the proceed using that instrument. However, testing may proceed on another instrument. Then step one shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in step two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in step one and step two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the Town of Carthage up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the Town of Carthage.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the Town of Carthage, when possible.

The completed breath alcohol test form shall be submitted to the mayor. (Ord. #268, Dec. 1995, modified)

4-408. <u>Education and training</u>. (1) <u>Supervisory personnel who will</u> <u>determine reasonable suspicion testing</u>. Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The Town of Carthage will sponsor a drug-free awareness program for all employees.

(2) <u>Distribution of information</u>. The minimal distribution of information for all employees will include the display and distribution of:

(a) Informational material on the effects of drug and alcohol abuse;

(b) An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;

(c) The Town of Carthage policy regarding the use of prohibited drugs and/or alcohol; and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (Ord. #268, Dec. 1995)

4-409. <u>Consequences of a confirmed positive drug and/or alcohol</u> <u>test result and/or verified positive drug and/or alcohol test result</u>. Job applicants will be denied employment with the Town of Carthage if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safetysensitive function and may be subject to disciplinary action up to and including termination. The town may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the town reserves the right to allow employees to participate in an education and/or treatment program approved by the town employee assistance program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the town's employee assistance program or other program sanctioned by the town, and thereafter refrain from violating the town's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of town personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver:

(1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;

(2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or

(3) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technicians shall provide a written statement to the town indicating a refusal to test. (Ord. #268, Dec. 1995)

4-410. <u>Voluntary disclosure of drug and/or alcohol use</u>. In the event that an employee of the Town of Carthage is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the Town of Carthage. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the Town of Carthage may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

(1) The employee must use all vacation, sick, and compensatory time available.

(2) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided paid/unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period. (Note: This is an optional provision.)

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-

duty recommendation from the substance abuse professional (SAP) of the Town of Carthage. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and Mayor of the Town of Carthage will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the Town of Carthage. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy. (Ord. #268, Dec. 1995)

4-411. <u>Exceptions</u>. This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol. (Ord. #268, Dec. 1995)

4-412. <u>Modification of policy</u>. This statement of policy may be revised by the Town of Carthage at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the Town of Carthage. (Ord. #268, Dec. 1995)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

- 1. PURCHASING LIMITS.
- 2. REAL PROPERTY TAXES.
- 3. PRIVILEGE TAXES.
- 4. WHOLESALE BEER TAX.

CHAPTER 1

PURCHASING LIMITS

SECTION

5-101. Purchases made in excess of \$10,000.00.

5-101. <u>Purchases made in excess of \$10,000.00</u>. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. (Ord. #296, Nov. 1999)

¹Charter reference Tax assessments: § 9.

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.5-202. When delinquent--penalty and interest.

5-201. <u>When due and payable</u>.¹ Taxes levied by the town against real property shall become due and payable annually on the first day of October of the year for which levied. (1983 Code, § 6-101, modified)

5-202. <u>When delinquent--penalty and interest</u>.² All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.³ (1983 Code, § 6-102)

¹State law references

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

²Charter and state law reference

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

³Charter and state law references

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

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

PRIVILEGE TAXES

SECTION

5-301. Tax levied.5-302. License required.

5-301. <u>**Tax levied**</u>. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (<u>Tennessee Code Annotated</u>, § 67-4-701, <u>et seq</u>.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the said act. (1983 Code, § 6-201)

5-302. <u>License required</u>. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the city recorder to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1983 Code, § 6-202, modified)

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. <u>To be collected</u>. The city recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in <u>Tennessee Code</u> <u>Annotated</u>, title 57, chapter 6^{1} (1983 Code, § 6-301, modified)

¹State law reference

<u>Tennessee Code Annotated</u>, 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.

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

2. FALSE ALARMS.

CHAPTER 1

POLICE AND ARREST¹

SECTION

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

6-101. <u>Appointment of chief of police and policemen</u>.² The town council shall have the authority to appoint the chief of police and such other policemen or peace officers as they deem advisable and shall have the right to fix compensation for services rendered. Said peace officers shall give bond in such amounts as the town council may require and town council shall pay the premiums, if any, for same. (1983 Code, § 1-401)

6-102. <u>Policemen subject to chief's orders</u>. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1983 Code, § 1-402)

6-103. <u>Policemen to preserve law and order, etc</u>. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the city court during the trail of cases. Policemen shall also promptly serve any legal process issued by the city court. (1983 Code, § 1-403)

²Charter reference

¹Municipal code reference

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

Appointment of chief of police and other officers: §8.

6-104. <u>Policemen to wear uniforms and be armed</u>. All policemen shall wear such uniform and badge as the town council shall authorize and shall carry a service pistol and other equipment as prescribed by the chief of police at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1983 Code, § 1-404, modified)

6-105. <u>When policemen to make arrests</u>.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1983 Code, § 1-405)

6-106. <u>Policemen may require assistance</u>. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1983 Code, § 1-406)

6-107. <u>Disposition of persons arrested</u>. Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available or the alleged offender does not post the required bond, he shall be confined. (1983 Code, § 1-407)

6-108. <u>Police department records</u>. 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. (1983 Code, § 1-408)

¹Municipal code reference

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

FALSE ALARMS

SECTION

6-201. False alarms.

6-201. False alarms.¹ After a third false alarm is received by either the police or fire department from the same location within a twelve (12) month period, said location shall be given notice that they will be responsible for actual expenses incurred for all false alarms received after that time. (Ord. #256, April 1994)

¹Municipal code reference Intentional false emergency alarms: § 11-402.

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

- 1. FIRE DISTRICT DESIGNATED.
- 2. FIRE CODE.
- 3. FIRE DEPARTMENT.
- 4. FIRE SCENE CONTROL.
- 5. FALSE ALARMS.

CHAPTER 1

FIRE DISTRICT DESIGNATED

SECTION

7-101. Fire district described.

7-101. <u>Fire district described</u>. The corporate fire district shall be as follows: All that area within the corporate limits of the town. (1983 Code, \S 7-101, modified)

¹Municipal code reference

Building, utility and housing codes: title 12.

FIRE CODE¹

SECTION

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

7-201. <u>Fire code adopted</u>. Pursuant to authority granted by <u>Tennessee</u> <u>Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the <u>International Fire Code</u>,² 2003 edition, as published by the International Code Council is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1983 Code, § 7-201, modified, as amended by Ord. #346, Feb. 2005)

7-202. <u>Enforcement</u>. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department and/or a designated representative as approved by the board of mayor and aldermen/women. He shall have the same powers as the state fire marshal. (1983 Code, § 7-202, as amended by Ord. #346, Feb. 2005)

7-203. <u>Definition of "municipality</u>." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Carthage, Tennessee. (1983 Code, § 7-203)

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

¹Municipal code reference

Building, utility and housing codes: title 12.

Change 2, November 9, 2006

7-204. <u>Storage of explosives, flammable liquids, etc</u>. (1) Geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited in the Town of Carthage.

(2) Geographic limits in which storage of Class I and Class II liquids in above-ground tanks outside buildings is prohibited in the Town of Carthage.

(3) Geographic limits in which storage of Class I and Class II liquids in above ground tanks is prohibited in the Town of Carthage.

(4) Geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas in the Town of Carthage. (1983 Code, § 7-204, as replaced by Ord. #346, Feb. 2005)

7-205. <u>Gasoline trucks</u>. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1983 Code, § 7-205)

7-206. <u>Variances</u>. The chief of the fire department and/or his designated representative may recommend to the city council variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council. (1983 Code, § 7-206, as amended by Ord. #346, Feb. 2005)

7-207. <u>Violations and penalties</u>. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1983 Code, \S 7-207)

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.
- 7-308. Equipment use.

7-301. <u>Establishment, equipment, and membership</u>. The self-chartered fire department and its sovereignty is hereby recognized as a separate government entity to be supported and equipped from appropriations by the town council. All apparatus, equipment, and supplies purchased in behalf of the department shall be and remain the property of said department with full custody and control. The chief and such subordinate manpower as is necessary shall be chosen in a continuous and democratic manner by the department without interference by the mayor or town council. The council, by majority vote, shall confirm the election of the chief. (1983 Code, § 7-301, modified)

7-302. <u>Objectives</u>. The fire department shall have as its objectives:

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

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1983 Code, § 7-302)

7-303. <u>Organization, rules, and regulations</u>. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1983 Code, § 7-303)

¹Municipal code reference

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

7-304. <u>Records and reports</u>. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1983 Code, § 7-304)

7-305. <u>Tenure and compensation of members</u>. The chief shall hold office so long as his conduct and efficiency are satisfactory to a democratic process by his subordinates. In order that adequate authority and discipline may be maintained, the chief shall have the authority to suspend or discharge any member of the fire department when he deems such action to be necessary for the general welfare of the department.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1983 Code, § 7-305, modified)

7-306. <u>Chief responsible for training and maintenance</u>. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1983 Code, § 7-306)

7-307. <u>Chief to be assistant to state officer</u>. Pursuant to requirements of <u>Tennessee Code Annotated</u>, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by <u>Tennessee Code Annotated</u>, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1983 Code, § 7-308)

7-308. <u>Equipment use</u>. The ranking fire officer on duty during any emergency shall direct the use of fire department equipment and manpower wherever necessary to protect the best interest of the city.

The mayor, by written communication, shall delegate authority to the fire chief. (1983 Code, § 7-307, modified)

FIRE SCENE CONTROL¹

SECTION

7-401. Ranking fire officer authorized to establish safety zones.7-402. Vehicle parking in safety zones restricted.

7-401. <u>Ranking fire officer authorized to establish safety zones</u>. The ranking fire officer at the scene of a fire or any other natural or man-created disaster is authorized to establish a safety zone around such disaster and to exclude or remove from such zone any and all persons or vehicles the ranking officer in his discretion considers is a hindrance to the fire department in controlling such disaster. (1983 Code, § 7-401)

7-402. <u>Vehicle parking in safety zones restricted</u>. It shall be unlawful for any person to drive or park any vehicle within the safety zone after it is established without the permission of the ranking fire officer on the scene or his designee. (1983 Code, § 7-402)

¹Municipal code reference Emergency vehicles: title 15, chapter 2.

FALSE ALARMS

SECTION 7-501. False alarms.

7-501. <u>False alarms</u>.¹ After a third false alarm is received by either the police or fire departments from the same location within a twelve (12) month period, said location shall be given notice that they will be responsible for actual expenses incurred for all false alarms received after that time. (Ord. #256, April 1994)

¹Municipal code reference Intentional false emergency alarms: § 11-402.

TITLE 8

<u>ALCOHOLIC BEVERAGES¹</u>

CHAPTER

1. INTOXICATING LIQUORS.

2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. <u>Prohibited generally</u>. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1983 Code, § 2-101)

- Drinking beer, etc., on streets: § 11-101.
- Minors in beer places: § 11-102.
- State law reference
 - Tennessee Code Annotated, title 57.

²State law reference <u>Tennessee Code Annotated</u>, title 39, chapter 17.

¹Municipal code reference

BEER¹

SECTION

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

8-201. <u>Beer board established</u>. There is hereby established a beer board to be composed of the members of the city council. The mayor shall be chairman of the beer board. (1983 Code, § 2-201)

8-202. <u>Meetings of the beer board</u>. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1983 Code, § 2-202)

Drinking beer, etc., on streets: § 11-101.

Wholesale beer tax: title 5 chapter 4.

State law reference

¹Municipal code references

Minors in beer places: § 11-102.

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

8-203. <u>Record of beer board proceedings to be kept</u>. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1983 Code, § 2-203)

8-204. <u>Requirements for beer board quorum and action</u>. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1983 Code, § 2-204)

8-205. <u>Powers and duties of the beer board</u>. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter. (1983 Code, § 2-205)

8-206. <u>"Beer" defined</u>. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1983 Code, § 2-206)

8-207. <u>Permit required for engaging in beer business</u>. It is unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application is to be made on such form as the board shall prescribe and/or furnish, and pursuant to <u>Tennessee Code Annotated</u>, § 57-5-104(a), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a check payable to the City of Carthage. Each applicant must be a person of good moral character and he/she must certify that he/she has read and is familiar with the provisions of this chapter. (1983 Code, § 2-207, modified, as replaced by Ord. #360, Dec. 2007)

8-208. <u>Privilege tax</u>. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Carthage. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis of each month or portion thereof remaining until the next tax payment date. (1983 Code, \$2-208, as replaced by Ord. #360, Dec. 2007)

8-209. <u>Beer permits shall be restrictive</u>. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type of phase of the beer business not expressly authorized by his/her permit. It shall likewise be unlawful for him/her not to comply with any and all express restrictions or conditions in his/her permit. (1983 Code, § 2-209, as replaced by Ord. #360, Dec. 2007)

8-210. <u>Limitation on number of permits</u>. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits to the city at the date of the passage of this section shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment or building purchased. (1983 Code, § 2-210, as replaced by Ord. #360, Dec. 2007)

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches or other places of public gatherings, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other place of public gathering, defined as a public place which frequently has more than fifty (50) persons in attendance at a single time, event or gathering. The distance shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit has been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. The beer board has the absolute discretion as to grant the distance variance based on the facts and circumstances of each individual variance request. (1983 Code, § 2-211, as replaced by Ord. #360, Dec. 2007)

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

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer;

Change 3, September 4, 2008

(2) Make or allow the sale of beer between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday;

(3) Allow any person under twenty-one (21) years of age to loiter in or about his/her place of business;

(4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane or otherwise mentally incapacitated person;

(5) Allow drunk persons to loiter about his/her premises;

(6) Serve, sell or allow the consumption on his/her premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight;

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1983 Code, § 2-212, modified, as replaced by Ord. #360, Dec. 2007)

8-213. <u>Revocation or suspension of beer permits</u>. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his/her application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension may be initiated by the police chief or any member of the beer board.</u>

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" gualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor under notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1983 Code, § 2-213, as replaced by Ord. #360, Dec. 2007)

8-214. Civil penalty in lieu of revocation or suspension.

(1) <u>Definition</u>. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Change 3, September 4, 2008

Commission under the "Tennessee Responsible Vendor Act of 2006," <u>Tennessee</u> <u>Code Annotated</u>, § 57-5-601, <u>et seq</u>.

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

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission of the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as replaced by Ord. #360, Dec. 2007)

8-215. <u>Loss of clerk's certification for sale to minors</u>. If the beer board determines that a clerk of an off-premises beer permit holder certified under <u>Tennessee Code Annotated</u>, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as replaced by Ord. #360, Dec. 2007)

8-216. <u>Violations</u>. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation continues shall constitute a separate offense. (as added by Ord. #360, Dec. 2007)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

- 1. PEDDLERS, SOLICITORS, ETC.
- 2. FAIR HOUSING.
- 3. CABLE TELEVISION.
- 4. WRECKER SERVICE POLICY.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

SECTION

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

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

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

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

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

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

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

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

(5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously

¹State law references

<u>Tennessee Code Annotated</u>, § 62-30-101 et seq. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from <u>Tennessee Code</u> <u>Annotated</u>, § 62-30-101(3). Note also that <u>Tennessee Code Annotated</u>, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in <u>Tennessee Code Annotated</u>, § 67-4-709(b).

Change 2, November 9, 2006

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

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

9-102. <u>Exemptions</u>. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

9-103. <u>Permit required</u>. (1) No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

(2) Permits for charitable solicitations within the Town of Carthage's corporate limits shall be issued on a first to apply basis, to be conducted on the particular day of the month by the requesting charitable organization. All charitable solicitation permits issued shall allow no more then four (4) solicitors of the permittee at each intersection at any time and all solicitations shall take place at the approved intersection(s) as applied for and approved. Any violation of this ordinance will be subjected to a fine of not less than fifty dollars (\$50.00) per incident.

The roadblock shall be conducted according to the terms and conditions as set forth in the application of permit for fundraising roadblocks. Failure to do so may, in the Town of Carthage's sole discretion, result in the revocations of roadblock privileges for the requesting organization/applicant. (as amended by Ord. #340, Dec. 2004)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Change 2, November 9, 2006

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

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

9-108. <u>Suspension or revocation of permit</u>. (1) <u>Suspension by the recorder</u>. The permit issued to any person or organization under this chapter may be suspended by the town recorder for any of the following causes:

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

(b) Any violation of this chapter.

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

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

9-110. <u>Violation and penalty</u>. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to one hundred dollars (\$100) for each offense. Each day a violation occurs shall constitute a separate offense.

FAIR HOUSING¹

SECTION

- 9-201. Definitions.
- 9-202. Prohibited acts.
- 9-203. Exemptions.
- 9-204. Discrimination by real estate agents prohibited.
- 9-205. Duties of human relations subcommittee.
- 9-206. Complaint process.
- 9-207. Penalty.
- 9-208. Additional remedies.

9-201. <u>Definitions</u>. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise.

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

(2) "Family" includes a single individual.

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

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (1983 Code, § 5-301)

9-202. <u>Prohibited acts</u>. Subject to the exceptions set out in § 9-203 it shall be unlawful for any person to do any of the following acts:

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

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

¹Municipal code references

Building, plumbing, wiring and housing regulations: title 12. Zoning and land use: title 14.

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

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

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (1983 Code, § 5-302)

9-203. <u>Exemptions</u>. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. (1983 Code, § 5-303)

9-204. <u>Discrimination by real estate organizations prohibited</u>. It shall be unlawful to deny any person access or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, or national origin. (1983 Code, § 5-304)

9-205. Duties of human relations subcommittee. The human relations subcommittee of the mayor's citizens' advisory committee of Carthage is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing them. The subcommittee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate town officials on matters of enforcement. The subcommittee may issue reports on such conferences and consultations as it deems appropriate. (1983 Code, § 5-305)

9-206. <u>Complaint process</u>. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of the human relations subcommittee. A complaint shall be filed within one hundred eighty (180) days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the human relations subcommittee. Upon receipt of a complaint the subcommittee shall promptly investigate it and shall complete its investigation within fifteen (15) days. If a majority of the human relations subcommittee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said subcommittee, the subcommittee may request the town attorney to prosecute an action in the town court against the person charged in the complaint. Such request shall be in writing. Upon receiving such written request and with the assistance of the aggrieved person and said subcommittee, within fifteen (15) days after receiving such request, the town attorney shall be prepared to prosecute an action in the town court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1983 Code, § 5-306)

9-207. <u>Penalty</u>. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall be punished under the general penalty provision of this code. (1983 Code, § 5-307)

9-208. <u>Additional remedies</u>. Nothing in this article requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the federal civil rights acts or other applicable legal provision. (1983 Code, § 5-308)

CABLE TELEVISION

SECTION 9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television service shall be furnished to the Town of Carthage and its inhabitants under franchise as the town council shall grant. The rights, powers, duties and obligations of the Town of Carthage and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (1983 Code, § 13-401, modified)

¹For complete details relating to the cable television franchise agreement see Ord. #276 dated April 3, 1997 in the office of the town recorder.

WRECKER SERVICE POLICY

SECTION 9-401. Policy 9-402. Purpose. 9-403. Procedures.

9-401. <u>Policy</u>. Officers of the Carthage Police Department must know when the towing of certain vehicles is authorized. Whenever possible, owners or operators of vehicles for which towing is required will be encouraged to specify a towing service of their own choice. When required, the officer will summons needed tow trucks on a rotation basis, unless a specific request for a particular tow service has been made by the owner or operator of the vehicle to be towed. (Ord. #234, June 1989)

9-402. <u>Purpose</u>. The purpose of this policy is to establish the necessary guidelines governing the towing of vehicles. (Ord. #234, June 1989)

9-403. <u>Procedures</u>. (1) <u>Towing situations</u>. These are the occasions when an officer assists the owner/operator of a vehicle in obtaining towing services. Examples of this would be to remove a damaged vehicle from the scene of a traffic accident or in providing assistance to the operator of an otherwise disabled vehicle. Frequently, a minor violation of the law will be involved in the situation. However, the department's goal of providing assistance to the stranded motorists takes precedence over the enforcement of an unintended violation of the law.

(2) <u>Towing procedures</u>. (a) Officers shall request the motorist to name the towing company to be called. Officers shall honor and communicate this request, and shall not summon a wrecker until the motorist has voiced his preference.

(b) When the motorist is unable or unwilling to state a preference, the officer will advise the dispatcher to send a "no request" wrecker from the rotation list.

(c) In extreme emergency situations, officers may summon the nearest wrecker company to the scene.

(d) An officer should remain with motorist until the wrecker arrives.

(e) Officers should wait no more than twenty (20) minutes for a requested wrecker to arrive. After that time, the officer may summon a wrecker from the rotation list. Officers shall make their dispatcher or shift supervisor aware of the delayed response from the first summoned wrecker company and dispatcher shall document same. (f) If the disabled vehicle can be either pushed by hand or moved by another wrecker to the shoulder of the road while waiting for the requested wrecker to arrive, this should be done to re-open the roadways.

(g) Officers shall not prepare a tow slip for any vehicle which is towed by way of motorists request.

(h) Absent lawful justification to the contrary, officers shall not search any vehicle which is towed by way of motorists request.

(3) <u>Unpound situations</u>. There are occasions when an officer may lawfully seize a vehicle as a result of the violation of a statute, ordinance or traffic regulation where this is provided. Examples of impound situations may be on the arrest of a D.W.I. driver, or the recovery of a stolen vehicle. When impounding vehicles, officers shall comply with all areas of this general order in respect to tow slips, requests for wrecker services, etc.

(4) <u>Impoundment procedures</u>. (a) If the situation allows, officers shall first attempt to dispose of vehicles through the Alternative to Impoundment. When these have failed, officers may proceed with impoundment.

(b) Officers must have proper knowledge that the seizure of the vehicle is lawful. If the officer has any questions on this, he should communicate his concerns to the shift supervisor.

(c) Officers shall complete a tow slip on every impounded vehicle.

(d) Officers shall summon the on-call wrecker from the rotation list.

(e) Officers shall notify the wrecker driver at the time of the call of any unusual circumstances may impact the wrecker driver's decision on which equipment to utilize, such as an unusually large vehicle or the presence of hazardous materials.

(f) Impounded vehicles shall be stored at the wrecker company's lot. Exception to this would be that vehicles subject to forfeiture to the department shall be stored at the county jail.

(g) Officers shall notify the wrecker driver on when to secure a vehicle for evidence processing.

(6) <u>Alternatives to impoundment</u>. If the vehicle is not to be retained by the department for evidentiary or forfeiture purposes, officers shall first attempt to dispose of the vehicle prior to impoundment as follows:

(a) <u>Release to owner</u>. If the owner can be located and is able (sober and licensed) to operate the vehicle, officers should give the owner a reasonable opportunity to move the vehicle in order to avoid impoundment. Examples of this would be vehicles parked in fire lanes.

(b) <u>Alternate driver</u>. If the owner is present but not able (sick, intoxicated, etc.) to operate the vehicle, officers shall request the motorist to designate a person to drive the vehicle from the scene. Officers shall make a reasonable effort to communicate the motorists wishes to the

designated driver, and shall afford that person a reasonable opportunity to arrive at the scene.

(c) <u>Park the vehicle</u>. If the vehicle is in a place where it can remain lawfully parked, officers may leave the vehicle where it is, at the motorist's request. Officers shall not allow the operator to drive the vehicle to a parking place after having placed under arrest, nor shall any officer drive a citizen's vehicle for this purpose. Officers shall lock all doors and otherwise secure any vehicles so parked.

(d) <u>Release to wrecker company</u>. The motorist may request that the vehicle be towed away by the wrecker company of his own choice. Officers shall comply with these requests when presented by the motorists.

(7) <u>Tow slips</u>. (a) Every officer who impounds a vehicle must complete a tow slip for that vehicle. This should be done immediately before the vehicle is towed. Officers shall not complete a tow slip for vehicles which are towed as a service to the motorist, and the vehicle not impounded.

(b) Officers shall enter all of the required information concerning the vehicle on the tow slip, giving particular attention to entering the correct, complete license number and VIN number.

(c) Officers shall make a complete inventory of all property in the vehicle and shall schedule this property on the tow slip. Officers may open locked compartments (with a key) and may open closed containers to inventory their contents, but shall not force open any locked containers by breaking the lock.

(d) Officers shall require the wrecker driver to sign the tow slip to acknowledge receipt of and responsibility for the vehicle and its contents, and shall provide the wrecker driver with a copy of the tow slip.

(e) Before going off duty, officers shall check both the license number and VIN for stolen through NCIC, and shall indicate the results of this inquiry on the tow slip.

(f) Before going off duty, officers shall turn in the completed tow slip to the shift supervisor or dispatcher.

(g) The shift supervisor or dispatcher shall inspect the tow slip and file in the police department.

(8) <u>"Holds" and removal of "holds."</u> (a) Every officer who initiates a "Hold" on a vehicle shall immediately notify the wrecker company where the vehicle is stored of that fact.

(b) The officer shall mark "HOLD" in broad letters on the tow slip, along with his initials, the date, and the basis for this action.

(c) A "HOLD" may be removed from a vehicle by either the officer who initiated the action or by a superior officer. The officer who terminates a "HOLD" on a vehicle shall immediately notify the wrecker company of this action. He shall also indicate this action on the tow slip, along with his initials, the date and the basis for this action.

(9) <u>Release of impounded vehicles</u>. (a) Impounded vehicles shall be released only by the chief of police or a supervisor.

(b) Impounded vehicles may be released only to the owner of the vehicle or his agent.

(c) The person wishing to claim the vehicle must produce proof of ownership for the vehicle. Either the title or registration papers for the vehicle will serve this purpose.

(d) The officer who releases a vehicle to the agent of the owner will be responsible for verifying that this agent has the proper authorization from the owner to receive the vehicle.

(e) The individual seeking the release of the vehicle must sign the tow slip before the vehicle can be released to him. The officer will then provide this person with a copy of the tow slip and instructions on how they may then obtain the vehicle.

(f) If the tow slip shows that a "HOLD" has been placed on the vehicle at any time during impoundment, the releasing officer should communicate with the officer who initiated the "HOLD" to ensure that it has been removed.

(g) The releasing officer shall ensure that the vehicle has been checked for stolen through NCIC by both license number and VIN before he releases the vehicle.

(10) <u>Wrecker rotation list</u>. (a) The chief of police shall maintain a list of approved wrecker service providers.

(b) Persons who wish to have their service included in the rotation list may obtain an application form from the chief of police.

(c) No company and/or owner shall be permitted to occupy more than one (1) space in the rotation list.

(d) Applicants shall submit the completed application form and other required documentation directly to the chief of police.

(e) A summary of the department's minimum requirements for any company to be admitted to the rotation list shall be as follows:

(i) Maintain a tow in lot for storage of vehicles for the Town of Carthage within 1 mile of the North, South, East and West corporate limits of Carthage, all vehicles shall be towed to this lot and stored there until released.

(ii) Possess a Town of Carthage business license for the business and continue to compute the business license and/or Carthage city sales taxes based on the charges as if all fees and income for the tow and storage charges were earned in the city limits of Carthage, Tennessee, regardless of where the actual storage cost and fees are incurred.

(iii) Premises. The wrecker company must maintain a secure premises for the safe storage of vehicles. Two types of storage areas shall be provided. First, the company must have a building where vehicles that are to be processed for evidentiary

purposes may be secured away from public access and out of the weather. Second, a lot or yard shall be maintained for the secure storage of vehicles which are to be retained but not processed for evidence. This lot shall have a secure fence or other enclosure designed to defeat attempts to remove vehicles by unauthorized persons. All such secured storage areas as described herein shall be located within 1 mile of the North, South, East and West corporate limits of Carthage.

(iv) Possess garage keepers liability insurance with minimum coverage levels of \$100,000.

(v) Minimum size of lot to hold ten (10) cars with a minimum 6' fence required.

(vi) Secured building with capacity to hold one vehicle for evidentiary purposes.

(vii) Agree to abide by all requirements set forth for wrecker services as outlined herein.

(f) The applicant must cause his insurance agent(s) to verify proof of coverage before the application will be acted on.

(g) The chief of police shall determine whether the applicant has demonstrated satisfactory compliance with the minimum requirements as outlined above, and shall act on the application accordingly.

(h) All applicants who demonstrate successful compliance with these minimum standards shall receive equal opportunity for inclusion in the rotation list.

(i) The chief of police shall issue a final decision on the application via verbal communication.

(j) Renewal of the service privilege shall be on an annual basis, and shall be granted immediately upon receipt of proof of continued insurance.

(k) Service providers shall remain on the rotation list so long as they continue to comply with the minimum standards (defined earlier) and are not found in violation of any of the department's requirements on operating procedures or equipment.

(11) <u>Department use of the rotation list</u>. (a) The chief of police shall schedule every approved service provider to equal placement on the rotation list.

(b) Officers shall request the dispatcher to summon a service provider from the rotation list as needed unless conditions at the scene dictate otherwise. Such conditions may include the presence of an unusually large vehicle to be towed or an extreme emergency of threat to human life or safety. In such instances, officer discretion will be allowed in calling a specific provider only so long as the officer can adequately justify his actions to by-pass the rotation list.

(c) Officers shall request the dispatcher to notify the wrecker driver of any unusual conditions at the scene that may impact the driver's choice of equipment to utilize.

(d) When the dispatcher is unable to make contact with the next provider on the rotation list, or when the provider advises that he is not able to respond, the dispatcher will summon the provider who is next on the rotation list.

(e) The officer at the scene shall immediately notify the shift supervisor of any slow response or other violation of any department regulation concerning wrecker service. The officer shall also submit a written communication about the situation to the chief of police before going off duty. (12) <u>Wrecker company operating procedures</u>. (a) Wrecker companies shall make their services available 24 hours a day, seven days a week.

(b) Wrecker vehicles shall arrive at the scene of the call no longer than twenty (20) minutes after receiving notification from the dispatcher.

(c) If a wrecker company is not able to respond when called, the operator must immediately advise the dispatcher of that fact. In these cases, the department will give the call to the company next in line on the rotation list.

(d) Wrecker companies must have trained operators who employ proper towing methods.

(e) Wrecker operators must accept responsibility for the vehicle and its contents by signing the tow slip.

(f) Wrecker companies must honor "Holds" placed on vehicles by the department.

(g) Wrecker companies shall be available to release vehicles seven days a week.

(h) Wrecker companies shall release impounded vehicles only when the person claiming the vehicle has the proper release documents issued by the department.

(i) Wrecker companies shall notify the department of every impounded vehicle which has been held in storage over 30 days, as well as comply with all state requirements.

(j) Wrecker companies shall agree to submit to inspections by the department of their premises, vehicles and equipment for compliance with these regulations. Said inspection may be conducted without prior notice at any time when the company is open for business.

(k) Wrecker companies shall post their current tow rates and storage rates in a conspicuous place at their premises. These rates will be listed with the chief of police. Any changes of rates will be forwarded to the chief of police ten (10) days prior to the proposed change.

(l) The chief of police will remove from the rotation list any wrecker service whose tow rates are excessive when compared against other wrecker companies providing the same service.

(m) Wrecker companies shall tow vehicles to the county jail when so requested.

(n) Wrecker drivers may activate the amber lights when proceeding to scene of call, and <u>must</u> activate the amber lights at the scene and when towing from the scene.

(o) Calls received by wreckers shall be cleared through the department before the wrecker proceeds to the scene even if the owner calls the wrecker direct. No wrecker shall remove a wrecked vehicle without it being investigated by a law enforcement agency.

(p) Wrecker companies shall be responsible for removing glass and other debris from the highway accident scene.¹

(q) Wrecker company owners, operators and representatives shall not solicit for business at the scene of any call.

(r) Wreckers are prohibited from chasing or running wrecks without a bona fide call from the department dispatcher or the owner of the vehicle.

(s) Wrecker service operators shall not perform repair work on a vehicle (tow-in or impounded) without the owner's specific request.

(13) <u>Wrecker company equipment and facilities</u>. (a) <u>Premises</u>. The wrecker company must maintain a secure premises for the safe storage of vehicles. Two types of storage areas shall be provided. First, the company must have a building where vehicles that are to be processed for evidentiary purposes may be secured away from public access and out of the weather, this building must be located inside the Carthage town limits. Second, a lot or yard shall be maintained for the secure storage of vehicles which are to be retained but not processed for evidence. This lot shall have a secure fence or other enclosure designed to defeat attempts to remove vehicles by unauthorized persons.

(b) <u>Vehicles</u>. At least one amber-colored rotor-beam light shall be mounted on top of the wrecker. No other color will be approved by the department. All emergency flashers and directional lights showing to the front must be amber color. Wreckers are prohibited from having sirens. The appearance of wreckers shall be reasonably good. They should be painted, and should display the firm's name, address and telephone number painted on or permanently affixed on both doors. Such lettering should be at least three (3) inches high. All wreckers must have the following specifications at a minimum:

(i) The tow truck chassis shall have a minimum manufacturer's capacity of one (1) ton.

(ii) Individual boom capacity of not less than four (4) tons.

(iii) Individual power winch pulling capacity of not less than four (4) tons.

(iv) One hundred (100) feet or more of 3/8 inch cable on each drum.

(v) Dual cable lift capability.

(vi) Belt-type cradle tow plate or tow sling to pick up vehicles; cradle of tow place to be equipped with safety chains; or,

(vii) Wheel-lift tow plate equipped with safety chains; and(viii) Dollies.

Tennessee Code Annotated, § 55-8-170.

¹State law reference

(c) <u>Equipment</u>. Every approved wrecker shall have the following equipment on board at all times, at a minimum:

(i) Heavy-duty push broom.

(ii) Flood lights on hoist to illumine scene at night.

(iii) Shovel.

(iv) Axe, or similar wood cutting tool.

(v) Pinchbar, prybar or crowbar.

(vi) Bolt cutters with insulated handles; and

(vii) Minimum of one 20-pound Class ABC Underwriters Laboratory approved fire extinguisher.

(14) <u>Removal from the rotation list</u>. (a) The department will receive and investigate all complaints of service and/or charges against wrecker companies on the rotation list.

(b) The chief of police shall assign a sworn officer to investigate the complaint.

(c) The investigating officer will conduct his inquiries in a thorough, prompt and impartial manner.

(d) The investigating officer will forward copies of the complaint, investigative reports and other findings to the chief of police.

(e) The chief of police shall render a decision on the complaint within five (5) working days after the investigative reports have been forwarded to him.

(f) The chief of police shall issue his findings in the matter, and this shall be reduced to writing. Copies of this decision shall be furnished to both the complainant and the operator of the wrecker company.

(g) The penalty for a confirmed violation of any of the regulations concerning wrecker services may be:

(i) Letter of warning;

(ii) Suspension of towing privileges up to six (6) months;

(iii) Removal from the rotation list.

(h) Wrecker company owners/operators may appeal the penalty prescribed by the chief of police directly to the town council.

(15) <u>Frequently received calls</u>. (a) Private property with public access such as the parking areas around malls and shopping centers. As provided by Tennessee legislation, officers have the authority to enforce all state and municipal traffic regulations on these areas. Officers should attempt to remove vehicles via the alternatives to impoundment procedures prior to impoundment from these properties.

(b) Private property without public access such as private residence properties. Officers do not have the authority to remove vehicles from these properties. That authority rests with the owner of the property. Upon receiving such requests, officers should courteously advise the complainant of the limitations on officers in these matters, and suggest the various means available to the complainant to resolve the situation. This order is not intended to interfere with officers' obligation to seize any vehicles which are subject to forfeiture, or are required for other evidentiary purposes.

(c) Fire lanes. Officers shall attempt to remove vehicles from fire lanes via the alternatives to impoundment prior to calling for a wrecker to remove the vehicle.

(d) Recovered stolen vehicles should be stored inside a secure building at the wrecker company lot. If the vehicle owner should indicate a desire to take immediate possession of the vehicle, officers should work to explain the department's need to process the vehicle for evidence. When the owner indicates a reluctance to prosecute, officers may then implement the prescribed procedure for the release of impounded vehicles.

(e) Abandoned vehicles. Officers shall not impound abandoned vehicles, absent other lawful basis for the action, and shall report all abandoned vehicles to the chief of police.

(f) Vehicles subject to forfeiture. If the vehicle is to be processed for evidence, this should be completed as soon as is practical. (Ord. #234, June 1989, as amended by Ord. #313, May 2002)

TITLE 10

ANIMAL CONTROL

CHAPTER

- 1. IN GENERAL.
- 2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION

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

10-101. <u>Running at large prohibited</u>. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1983 Code, § 3-101)

10-102. <u>Keeping near a residence or business restricted</u>. No person shall keep any animal or fowl enumerated in § 10-101 above within two hundred (200) feet of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1983 Code, § 3-102)

10-103. <u>Pen or enclosure to be kept clean</u>. When animals or fowls of any kind 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. (1983 Code, § 3-103)

10-104. <u>Adequate food, water, and shelter, etc., to be provided</u>. 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 and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1983 Code, § 3-104)

10-105. <u>Keeping in such manner as to become a nuisance</u> **prohibited**. No animal or fowl of any kind shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1983 Code, § 3-105)

10-106. <u>Cruel treatment prohibited</u>. It shall be unlawful for any person to beat or otherwise abuse or injure an animal or fowl of any kind. (1983 Code, § 3-106, modified)

10-107. <u>Seizure and disposition of animals</u>. Any animal or fowl enumerated in § 10-101 above found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the town council. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address</u>. If not claimed by the owner within 3 days, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the town council.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the town council, to cover the costs of impoundment and maintenance. (1983 Code, § 3-107, modified)

10-108. <u>Inspections of premises</u>. For the purpose of making inspections to insure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1983 Code, § 3-108)

DOGS AND CATS

SECTION

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

10-201. <u>Rabies vaccination and registration required</u>. 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" (<u>Tennessee Code Annotated</u>, §§ 68-8-101 through 68-8-114) or other applicable law. (1983 Code, § 3-201, modified)

10-202. <u>Dogs to wear tags</u>. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1983 Code, § 3-202)

10-203. <u>Running at large prohibited</u>.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. (1983 Code, § 3-203)

10-204. <u>Vicious dogs to be securely restrained</u>. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1983 Code, § 3-204)

10-205. <u>Noisy dogs prohibited</u>. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1983 Code, § 3-205)

10-206. <u>Confinement of dogs suspected of being rabid</u>. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of

¹State law reference

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

police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1983 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer, animal control officer or any police officer and placed in a pound provided or designated by the city council. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within three (3) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog will be sold or humanely destroyed. If said dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within three (3) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.¹ (1983 Code, § 3-207, modified)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see <u>Darnell v.</u> <u>Shapard</u>, 156 Tenn. 544, 3 S.W.2d 661 (1928).

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

- 1. ALCOHOL.
- 2. FORTUNE TELLING, ETC.
- 3. ANTINOISE REGULATIONS.
- 4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
- 5. FIREARMS, WEAPONS AND MISSILES.
- 6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
- 7. MISCELLANEOUS.
- 8. SYNTHETIC DRUGS.

CHAPTER 1

<u>ALCOHOL²</u>

SECTION

11-101. Drinking beer, etc., on streets, etc. 11-102. Minors in beer places.

11-101. <u>Drinking beer, etc., on streets, etc</u>. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or any alcoholic beverage, in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has a beer permit and license for on premises consumption. (1983 Code, § 10-229, modified)

¹Municipal code references Animals and fowls: title 10. Housing and utilities: title 12. Fireworks and explosives: title 7. 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 <u>Tennessee Code Annotated</u>, § 33-8-203 (<u>Arrest for Public</u> <u>Intoxication</u>, cities may not pass separate legislation). **11-102.** <u>Minors in beer places</u>. No person under the age of eighteen (18) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1983 Code, § 10-222)

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. <u>Fortune telling, etc</u>. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1983 Code, § 10-234)

ANTINOISE REGULATIONS

SECTION

- 11-301. Definitions.
- 11-302. Disturbing the peace.
- 11-303. Exceptions.
- 11-304. Violation and penalty.

11-301. <u>Definitions</u>. A noise is unreasonable within the meaning of this chapter if it is unpleasant, harsh, or harmful to the human ear to the extent that it is detrimental to the physical or mental health and well-being of persons in the vicinity, measured by a totality of circumstances. Among those circumstances law enforcement officers applying this chapter shall consider in determining whether a noise is unreasonable are:

- (1) The place of the noise, including land use in the vicinity;
- (2) Time of the noise;
- (3) Character of the noise;
- (4) Level of the noise;
- (5) Duration of the noise;

(6) Any variance or enhancement to the factory-installed speaker system in any vehicle traveling within the town limits of Carthage. (Ord. #290, May 1999)

11-302. <u>Disturbing the peace</u>. No person shall make any of the following noises that unreasonably disturb the peace and quiet of persons in the vicinity, unless the making and continuing of the noise cannot be prevented and is necessary for the protection and preservation of property or of the health, safety, life or limb of some person.

(1) <u>Blowing horns</u>. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle except as a danger signal if another vehicle is approaching, apparently out of control, or if the vehicle is in motion, only as a danger signal immediately before, 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.

(2) <u>Radios, phonographs, compact disc, etc</u>. The playing of any radio, phonograph, compact disc, or any musical instrument or sound device, particularly during the hours between 11:00 P.M. and 7:00 A.M. However, nothing in this subsection shall be construed to negate the enforcement of this provision at any time there is a violation of same.

(3) <u>Yelling, shouting, etc</u>. Yelling, shouting, whistling, or singing on the public streets or any other place, particularly between the hours of 11:00

P.M. and 7:00 A.M. However, nothing in this subsection shall be construed to negate the enforcement of this provision at any time there is a violation of same.

(4) <u>Pets</u>. The keeping of any animal, bird or foul, which by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.

(5) <u>Malfunctioning vehicles</u>. The use of any automobile, motorcycle, truck, or vehicle that for any reason causes grating, grinding, rattling, or other noise.

(6) <u>Whistles and sirens</u>. The blowing of any whistle or siren, 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 town authorities.

(7) <u>Exhaust discharge</u>. 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.

(8)Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or areas, or the construction or repair of streets and highways in any residential area, except 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 of the permit for the work is awarded or during the process of the work.

(9) <u>Noises near schools, hospitals, churches, etc</u>. The creation of any 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.

(10) <u>Loading or unloading operations</u>. 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.

(11) <u>Loudspeakers, amplifiers</u>. The use of any loudspeakers, amplifiers, or other device or instrument that reproduces and amplifies the human voice, music, or sound of any other kind for any other purpose, whether or not the same is stationary or mobile.

(12) Any other noise of any description and from any other source. (Ord. #290, May 1999)

11-303. <u>Exceptions</u>. None of the terms or prohibitions hereof shall apply to or be enforced against:

(1) <u>Government vehicles</u>. Any vehicle of the federal, state, county, or town government upon necessary public business.

(2) <u>Repair of streets, etc</u>. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, county, state or federal government, when the public welfare and convenience renders it impracticable to perform such work during the day.

(3) <u>Courthouse square activities or parades</u>. Any public activity, which is conducted at or around the courthouse square which is sanctioned or given permission by any official office of the Town of Carthage or Smith County. Additionally, any parade, caravan or escort that had been granted specific permission by the previously noted governing bodies, to conduct same. (Ord. #290, May 1999)

11-304. <u>Violation and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. (Ord. #290, May 1999)

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

- 11-401. Impersonating a government officer or employee.
- 11-402. False emergency alarms.
- 11-403. Coercing people not to work.

11-401. <u>Impersonating a government officer or employee</u>. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1983 Code, § 10-211)

11-402. <u>False emergency alarms</u>.¹ It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such an act. (1983 Code, § 10-217)

11-403. <u>Coercing people not to work</u>. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1983 Code, § 10-230)

¹Municipal code reference

False alarms: §§ 6-201 and 7-501.

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Air rifles, etc.

11-502. Throwing of missiles; possession of eggs with intent to throw.

11-503. Weapons and firearms generally.

11-501. <u>Air rifles, etc</u>. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1983 Code, § 10-213)

11-502. Throwing of missiles; possession of eggs with intent to throw. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, egg or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. It shall also be unlawful for any person to possess in public, and on any street, highway, alley, public place or any property not belonging to or the dwelling place of said person an egg or eggs on October 31 or on any other day designated for the celebration of Halloween between the hours of 6:00 P.M. and 6:00 A.M. the next morning with the intent to throw same at any person or property. There shall be a rebuttable presumption that anyone in possession of an egg or eggs in the places and times designated above possessed said egg or eggs with the intent to throw same at persons and/or property. (1983 Code, § 10-214)

11-503. <u>Weapons and firearms generally</u>. It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1983 Code, § 10-212, modified)

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-601. Trespassing.

11-602. Malicious mischief.

11-603. Interference with traffic.

11-601. <u>**Trespassing**</u>. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1983 Code, § 10-226)

11-602. <u>Malicious mischief</u>. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1983 Code, § 10-225)

11-603. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1983 Code, § 10-232)

MISCELLANEOUS

SECTION

- 11-701. Abandoned refrigerators, etc.
- 11-702. Caves, wells, cisterns, etc.
- 11-703. Posting notices, etc.
- 11-704. Curfew for minors.
- 11-705. Wearing masks.
- 11-706. Disorderly houses.
- 11-707. Profanity, etc.

11-701. <u>Abandoned refrigerators, etc.</u> 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. (1983 Code, § 10-223)

11-702. <u>**Caves, wells, cisterns, etc.**</u> 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 placing thereon an adequate cover or safeguard. (1983 Code, § 10-231)

11-703. <u>Posting notices, etc.</u> No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public property. (1983 Code, § 10-227, modified)

11-704. <u>Curfew for minors</u>. It shall be unlawful for any person, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. and on October 31 or any other day designated for the celebration of Halloween between the hours of 8:00 P.M. and 5:00 A.M. the next morning unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1983 Code, § 10-224)

11-705. <u>Wearing masks</u>. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by a city clerk to wear a traditional holiday costume. (1983 Code, § 10-235, modified)

11-706. <u>Disorderly houses</u>. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person knowingly to visit any such house for the purpose of engaging in such activities. (1983 Code, § 10-203)

11-707. <u>**Profanity, etc.</u>** No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1983 Code, § 10-208)</u>

SYNTHETIC DRUGS

SECTION

- 11-801. Definitions.
- 11-802. Prohibited conduct.
- 11-803. Exception.
- 11-804. Civil penalty.

11-805. Severability.

11-801. <u>**Definitions**</u>. (1) "Synthetic drug" as used in this section shall mean:

(a) Any substance, however denominated, and no matter the common street, brand or trade name of such substance, containing one (1) or more of the following chemicals:

(i) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia dininorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(ii) (6aR,10aR)-9-(hydroxymethyl)-6, 6dimethyl-3 (2methylocatan-2yl)-6a, 7, 10, 10a-tetrahyrobenzo{c}chromen-1-ol (some trade or other names being: HU-210);

(iii) 1-pentyl-3-(1 napththoyl) indole (some trade or other names being: JWH-018);

(iv) 1-Butyl-3-(1 naphthoyl) indole (some trade of other names being: JWH-073;

(v) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);

(vi) 3, 4-methylenedioxypyrovalerone (MDPV), (some trade or other names being: MDPK);

- (vii) 4-methylmethcathinone (Mephedrone);
- (viii) 3,4-methylenedioxymethcathinone (Methylone);
- (ix) 3,-methoxymethcathinone;
- (x) 4-methoxymethcathinone;
- (xi) 3-fluoronethcathinone;
- (xii) 4-fluoromethcathinone.

(b) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinois), to include, but not limited to, "bath salts," "plant food," "incense," or "insect repellant," but excluding legitimate bath

salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellant not intended for human consumption, or legitimate incense used as an odor elimination product.

(c) Any similar substance to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance had no other apparent legitimate purpose for consumers.

(2) "Deliver" or "delivery" as used in this section shall mean the actual, constructive, or attempted transfer from one (1) person to another of a synthetic drug as defined herein, with or without any consideration, and whether there is an agency relationship.

(3) "Manufacture" as used in this section shall mean the production, preparation, propagation, compounding, conversion, or processing of a synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance of labeling or re-labeling of its container, except that the term "manufacture" shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

(a) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(b) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(4) "Administer" as used in this section shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, of any other means, to the body of a patient or research subject by:

(a) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(5) "Agent" as used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(6) "Dispense" as used in this section shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7) "Distribute" as used in this section shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(8) "Practitioner" as used in this section shall mean:

(a) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(b) A pharmacy, hospital or other institution, licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(9) "Person" as used in this section shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(10) "Sell" or "sale" as used in this section shall mean a bargained-for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(11) "Production" as used in this section shall mean the planting, cultivation, tending, growing, or harvesting of a synthetic drug as defined in this section.

(12) "Possess" or "possession" as used in this section shall mean either actual possession or constructive possession:

(a) "Actual possession" as used in this section shall mean the exercise of direct physical control or dominion over an object.

(b) "Constructive possession" as used in this section shall mean the power and intent to exercise control over an object although not in actual physical possession of an object. Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances. (as added by Ord. #380, Oct. 2011)

11-802. <u>**Prohibited conduct**</u>. (1) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, within the city corporate limits and extending one (1) mile therefrom.

(2) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the city corporate limits and extending one (1) mile therefrom. (as added by Ord. #380, Oct. 2011)

11-803. <u>Exception</u>. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a

"practitioner" as defined herein, provided such act is otherwise permitted by general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted. (as added by Ord. #380, Oct. 2011)

11-804. Civil penalty. Any City of Carthage sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citation so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citation issued for a violation of any of the provisions of this section shall be tried in the General Sessions Court of Smith County. The general sessions judge shall determine whether a defendant has committed a violation of this section, the city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the general sessions judge, the judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the general sessions judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administration fee to the Smith County Court in an amount to recoup the cost incurred by the city law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (as added by Ord. #380, Oct. 2011)

11-805. <u>Severability</u>. If any section, subsection, sentence, clause, phrase, paragraph, word or provision or part thereof of this chapter is for any reason held to be invalid or unlawful by any court of competent jurisdiction, such decision shall not be construed to affect the validity of any remaining section, subsection, sentence, clause, phrase, paragraph, word or provision or part thereof and the same shall continue force and effect. (as added by Ord. #380, Oct. 2011)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

- 1. BUILDING CODE.
- 2. PLUMBING CODE.
- 3. ELECTRICAL CODE.
- 4. GAS CODE.
- 5. HOUSING CODE.
- 6. MODEL ENERGY CODE.
- 7. EXISTING BUILDINGS CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

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

12-101. <u>Building code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the <u>International Building Code</u>,² 2003 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (Ord. #225, Jan. 1988, modified, as amended by Ord. #341, Feb. 2005)

- Fire protection, fireworks, and explosives: title 7. Planning and zoning: title 14. Streets and other public ways and places: title 16.
- Utilities and services: titles 18 and 19.

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

¹Municipal code references

Change 2, November 9, 2006

12-102. <u>Modifications</u>. (1) <u>Definitions</u>. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the Town Council of Carthage. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the town council shall have appointed or designated to administer and enforce the provisions of the building code. Section 107 of the building code is hereby deleted.

(2) <u>Permit fees</u>. The schedule of permit fees shall be collected as set by the board of mayor and aldermen. (Ord. #225, Jan. 1988, modified, as amended by Ord. #341, Feb. 2005)

12-103. <u>Available in city recorder's office</u>. Pursuant to the requirements of the <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the building code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (Ord. #225, Jan. 1988, modified)

12-104. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (Ord. #225, Jan. 1988)

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in city recorder's office.
- 12-204. Violations.

12-205. Enforcement.

12-201. <u>Plumbing code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the <u>International Plumbing Code</u>,² 2003 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1983 Code, § 4-201, modified, as amended by Ord. #342, Feb. 2005)

12-202. <u>Modifications</u>. (1) <u>Definitions</u>. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the town council.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the town council to administer and enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted.

(2) <u>Permit fees</u>. The schedule of permit fees shall be collected as set by the board of mayor and aldermen. (1983 Code, § 4-202, modified, as amended by Ord. #342, Feb. 2005)

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

¹Municipal code references Cross connections: title 18. Street excavations: title 16. Wastewater treatment: title 18. Water and sewer system administration: title 18.

12-203. <u>Available in city recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-203, modified)

12-204. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1983 Code, § 4-204)

12-205. <u>Enforcement</u>. The provisions of this code subsection shall not be subject to enforcement by the City of Carthage until such time as the town employs an employee, agent and/or independent contractor who shall specifically undertake to regulate on behalf of the town said industry or service as herein defined.

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in city recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations.
- 12-305. Electrical inspector.
- 12-306. Fees.
- 12-307. Enforcement.

12-301. <u>Electrical code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the <u>National Electrical Code</u>,² 1999 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1983 Code, § 4-301, modified)

12-302. <u>Available in city recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the electrical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-302, modified)

12-303. <u>Permit required for doing electrical work</u>. No electrical work shall be done within this town until a permit therefor has been issued by the town. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1983 Code, § 4-303)

12-304. <u>Violations</u>. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1983 Code, § 4-304)

12-305. <u>Electrical inspector</u>. The electrical inspector shall be such person as the town council shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1983 Code, § 4-305)

12-306. <u>Fees</u>. The electrical inspector shall collect the same fees as are authorized in <u>Tennessee Code Annotated</u>, § 68-102-143, for electrical inspections by deputy inspectors of the state fire marshal. (1983 Code, § 4-306)

12-307. <u>Enforcement</u>. The provisions of this code subsection shall not be subject to enforcement by the City of Carthage until such time as the town employs an employee, agent and/or independent contractor who shall specifically undertake to regulate on behalf of the town said industry or service as herein defined.

GAS CODE¹

SECTION

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Use of existing piping and appliances.
- 12-404. Bond and license.
- 12-405. Gas inspector and assistants.
- 12-406. Powers and duties of inspector.
- 12-407. Permits.
- 12-408. Inspections.
- 12-409. Certificates.
- 12-410. Fees.
- 12-411. Violations and penalties.
- 12-412. Nonliability.
- 12-413. Enforcement.

12-401. <u>Title and definitions</u>. This chapter and the code herein adopted by reference shall be known as the gas code of the Town of Carthage and may be cited as such. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the town council.

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1983 Code, § 4-401)

12-402. <u>Purpose and scope</u>. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of

¹Municipal code reference

Gas system administration: title 19, chapter 2.

consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the <u>Standard Gas Code</u>,¹ 1999 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1983 Code, § 4-402, modified)

12-403. <u>Use of existing piping and appliances</u>. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1983 Code, § 4-403)

12-404. <u>Bond and license</u>. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the city recorder a good and sufficient bond in the penal sum of \$10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the city recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the city recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in

¹Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1983 Code, § 4-404, modified)

12-405. <u>Gas inspector and assistants</u>. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the town council. (1983 Code, § 4-405)

12-406. <u>Powers and duties of inspector</u>. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1983 Code, § 4-406)

12-407. <u>Permits</u>. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city recorder; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the city recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1983 Code, § 4-407, modified)

12-408. <u>Inspections</u>. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1983 Code, § 4-408)

12-409. <u>Certificates</u>. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1983 Code, § 4-409)

12-410. <u>Fees</u>. The permit fee schedule as recommended in Appendix "B" of the gas code is hereby adopted. (1983 Code, § 4-410, modified)

12-411. <u>Violations and penalties</u>. Section 110 of the gas code is hereby deleted. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1983 Code, § 4-411, modified)

12-412. <u>Nonliability</u>. This chapter shall not be construed as imposing upon the town any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the town, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1983 Code, § 4-412) 12-413. <u>Enforcement</u>. The provisions of this code subsection shall not be subject to enforcement by the City of Carthage until such time as the town employs an employee, agent and/or independent contractor who shall specifically undertake to regulate on behalf of the town said industry or service as herein defined.

HOUSING CODE¹

SECTION

- 12-501. Housing code adopted.
- 12-502. Modifications.
- 12-503. Available in city recorder's office.

12-504. Violations.

12-501. <u>Housing code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the <u>International Residential Code</u>,² 2003 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1983 Code, § 4-501, modified, as amended by Ord. #343, Feb. 2005)

12-502. <u>Modifications</u>. (1) <u>Definitions</u>. Wherever the residential code refers to the "Building Official" it shall mean the person appointed or designated by the town council to administer and enforce the provisions of the residential code. Wherever the "Department of Law" is referred to it shall mean the town attorney. Wherever the "Applicable Governing Body" is referred to it shall mean the town the town council.

(2) The schedule of permit fees shall be collected by the board of mayor and aldermen. (1983 Code, § 4-502, as amended by Ord. #343, Feb. 2005)

12-503. <u>Available in city recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the housing code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (1983 Code, § 4-503, modified)

12-504. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1983 Code, § 4-504)

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

¹Municipal code reference

Fair housing: title 9, chapter 3.

MODEL ENERGY CODE¹

SECTION

- 12-601. Model energy code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violation and penalty.

12-601. <u>Model energy code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the <u>International Energy Conservation</u> <u>Code</u>,² 2003 edition, as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (as amended by Ord. #345, Feb. 2005)

12-602. <u>Modifications</u>. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Carthage. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

12-603. <u>Available in recorder's office</u>. Pursuant to the requirements of the <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the energy code has

¹State law reference

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from International Code Council, 900 Montclair Road, Birmingham, Alabama 35123.

<u>Tennessee Code Annotated</u>, § 13-19-106 requires Tennessee cities <u>either</u> to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code. Municipal code references

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. <u>Violation and penalty</u>. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

EXISTING BUILDINGS CODE¹

SECTION

- 12-701. Existing buildings code adopted.
- 12-702. Modifications.

12-703. Violations.

12-701. <u>Existing buildings code adopted</u>. The <u>International Existing</u> <u>Building Code</u>,² 2003 edition, as prepared by the International Code Council, is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the existing buildings code. (as added by Ord. #344, Feb. 2005)

12-702. <u>Modifications</u>. (1) <u>Definitions</u>. Whenever the code refers to a "Building Official" it shall mean the person appointed or designated by town council to administer and enforce the provisions of the "Existing Building Code."

(2) The schedule of fees for a permit shall be set by the board of mayor and aldermen. (as added by Ord. #344, Feb. 2005)

12-703. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provisions of the existing building code as herein adopted by reference. (as added by Ord. #344, Feb. 2005)

- Fire protection, fireworks, and explosives: title 7. Planning and zoning: title 14. Streets and other public ways and places: title 16.
- Utilities and services: titles 18 and 19.

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

¹Municipal code references

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. JUNKYARDS.
- 3. DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES.
- 4. SUBSTANDARD BUILDINGS--VACATION, REMOVAL, DEMOLITION AND REPAIR.

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.

13-101. <u>Health officer</u>. The "health officer" shall be such municipal, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1983 Code, \S 8-101)

13-102. <u>Smoke, soot, cinders, etc</u>. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1983 Code, § 8-104)

13-103. <u>Stagnant water</u>. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property

Littering streets, etc.: § 16-107.

¹Municipal code references

Animal control: title 10.

Occupational safety and health program: title 4.

Toilet facilities in beer places: \S 8-211(10).

Change 4, June 27, 2013

without treating it so as effectively to prevent the breeding of mosquitoes. (1983 Code, § 8-105)

13-104. <u>Weeds</u>. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, whether vacant or occupied, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over eight inches (8").

Any failure to comply with an order to cut such vegetation when it has reached a height of over eight inches (8") within ten (10) days of notification shall result in the city cutting the vegetation and billing the property owner for the actual cost. (1983 Code, § 8-106, modified, as amended by Ord. #390, Jan. 2013)

13-105. <u>Dead animals</u>. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1983 Code, § 8-107)

13-106. <u>Health and sanitation nuisances</u>. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1983 Code, § 8-108)

JUNKYARDS

SECTION

13-201. Junkyards.

13-201. <u>Junkyards</u>.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1983 Code, § 8-109)

¹State law reference

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

DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES

SECTION

- 13-301. Wrecked, junked or abandoned vehicles prohibited.
- 13-302. Public nuisance.
- 13-303. Procedure for removal.
- 13-304. Notice.
- 13-305. Hearing.
- 13-306. Removal.
- 13-307. Storage of vehicles.
- 13-308. Expense of disposal charged to owner.
- 13-309. Penalty.
- 13-310. Delegation of authority.

13-301. <u>Wrecked, junked or abandoned vehicles prohibited</u>. It shall be unlawful to park, store or leave any motor or other vehicle as a wrecked, junked, partially dismantled, or abandoned condition, on public or private property in the Town of Carthage unless it is in connection with a purpose or business enterprise lawfully situated and licensed. (1983 Code, § 9-601)

13-302. <u>Public nuisance</u>. All vehicles within the terms of this chapter are hereby declared to be public nuisances. (1983 Code, § 9-602)

13-303. <u>Procedure for removal</u>. The owner of any such vehicle or the owner of the private property on which the same is located shall be responsible for its removal upon appropriate notice and the opportunity to be heard. Prior to commencing the hearing procedure set out in §§ 13-304 through 13-306 of this chapter, notices shall be sent to the owner or resident of the property upon which the said vehicle is located stating that the condition of said vehicle has caused a violation of this chapter and that unless this violation is corrected within twenty-four (24) hours, procedures will be commenced to affect the removal of the vehicle. Such twenty-four (24) hour notice, or one similar thereto, shall also be provided the vehicle owner and any lienholders to the extent that their names and addressed may be reasonably ascertained after the town has first been apprised of such violation. If in the opinion of the mayor, the chief of police, fire chief, health officer or their designees, an emergency situation exists, the vehicle may be immediately removed. (1983 Code, § 9-603)

13-304. <u>Notice</u>. If the twenty-four (24) hour preliminary notice does not accomplish the correction of the violation, the procedure hereinafter set out shall be invoked. A notice shall be directed to the owner of the vehicle and any

lienholders, if known, and the owner of the premises where same is located at least two (2) days before the time for compliance therewith.

It shall be sufficient service of notice if it is posted in a conspicuous place upon the premises affected and a copy is mailed to such owners and lienholders at their last known address, place of residence or place of business. (1983 Code, § 9-604)

13-305. <u>Hearing</u>. Within two (2) days after the mailing or other service of said notice, the persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the town council. The hearing shall be held as soon as practicable after the filing of the request therefor and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as is deemed necessary and proper by the town council. (1983 Code, § 9-605)

13-306. <u>Removal</u>. If the violation described in the notice has not been remedied within five (5) days of the mailing or service thereof, or in the event that a notice requesting a hearing is timely filed and the existence of the violation is affirmed by the town council after hearing, pursuant to the police power to do all things whatsoever necessary for promoting or maintaining the general welfare of the town or its inhabitants, said vehicle shall be removed and taken into the possession of the town. Any town trucks or other vehicles used for such removal, other than town vehicles, shall be covered by insurance the form and extent of which shall be approved by the town council. (1983 Code, § 9-606)

13-307. <u>Storage of vehicles</u>. If the vehicle owner pays the town for all expenses involved in the removal and storage of same within ten (10) days of such removal, and indicates, in writing, that such vehicle will not be taken to a location where it will be in violation of § 13-301 above, possession shall be relinquished to such owner. If possession is not thus relinquished to the owner, the mayor shall sell any such vehicles after publication of notice thereof ten (10) days prior to the sale in a newspaper of general circulation in the town. (1983 Code, § 9-607)

13-308. Expense of disposal charged to owner. All costs and expenses incurred by the town in carrying out the provisions of this chapter shall be and constitute a charge and lien against:

(1) The owner of the vehicle,

(2) The owner of the real property when it is determined that the vehicle belongs to said owner, and

(3) The vehicle until paid with interest to secure at the rate of six (6) percent annually. (1983 Code, § 9-608)

13-309. <u>Penalty</u>. Any person violating any provision of this chapter shall be fined in accordance with the general penalty provision of this code. (1983 Code, \S 9-609)

13-310. <u>Delegation of authority</u>. The mayor is hereby authorized to designate the agency or department to implement the provisions of this chapter. (1983 Code, § 9-610)

SUBSTANDARD BUILDINGS--VACATION, REMOVAL, DEMOLITION AND REPAIR¹

SECTION

13-401. Purpose and scope.

- 13-402. Dangerous buildings defined.
- 13-403. Dangerous buildings declared public nuisances.
- 13-404. Duties of building inspector.
- 13-405. Duties of the town council.
- 13-406. Duties of city attorney.
- 13-407. Duties of fire and police departments.
- 13-408. Emergency cases.
- 13-409. When owner absent from town.
- 13-410. Standards to be applied by the building inspector and town council.
- 13-411. Violation; penalties.
- 13-412. Administrative liability.

13-401. <u>Purpose and scope</u>. The purpose and scope of this chapter are to provide for the vacation, removal, repair or demolition of any dangerous building and structure in the Town of Carthage which is or threatens to be a public nuisance, is dangerous to the health, morals, safety, or general welfare of the people of the Town of Carthage, or which constitutes a fire menace, and to provide for the assessment of the costs of such vacation, removal, repair or demolition as a municipal lien against such premises, and to provide for the recovery of such costs in an action at law. (1983 Code, § 4-601)

13-402. <u>Dangerous buildings defined</u>. Any building or structure of any kind which has any one or combination of the following defects shall be deemed a dangerous building within the context of this chapter:

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(2) Those which, exclusive of the foundation, show thirty-three (33) percent or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.

¹Charter reference

Removal of old and dilapidated buildings, etc.: § 9.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Town of Carthage.

(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(9) Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this town.

(10) Those buildings existing in violation of any provision of the building code of this town, or any provision of the fire prevention code, or other ordinances of this town. (1983 Code, § 4-602)

13-403. <u>Dangerous buildings declared public nuisances</u>. All dangerous buildings within the terms of § 13-402 above are hereby declared to be public nuisances, and shall be vacated, removed, repaired or demolished as provided in this chapter. (1983 Code, § 4-603)

13-404. Duties of the building inspector. The building inspector shall:

(1) Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of § 13-402 of this chapter.

(2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter.

(3) Inspect any building, wall or structure reported by the fire or police departments of the town as probably existing in violation of the terms of this chapter.

(4) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Smith County, of any building found by him to be a dangerous building within the standards set forth in § 13-402 of this chapter, that:

(a) The owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this chapter;

(b) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession;

(c) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the recorder of deeds of the County of Smith may at his own risk repair, vacate, or demolish said building or have such work or act done; provided that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(5) Set forth in the notice provided for in subsection (4) above, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding 30 days, as is reasonable.

(6) Report to the town council with the notice provided for in subsection (4) and (5) above.

(7) Appear at all hearings conducted by the town council, and testify as to the condition of dangerous buildings.

(8) Place a notice on all dangerous buildings reading as follows:

"THIS BUILDING HAS BEEN FOUND TO BE A DANGEROUS BUILDING BY THE BUILDING INSPECTOR. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED, VACATED, OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE, OR AGENT OF THIS BUILDING, AND ALL OTHER PERSONS HAVING INTEREST IN SAID BUILDING AS SHOWN BY THE LAND RECORDS OF THE RECORDER OF DEEDS OF SMITH COUNTY. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH." (1983 Code, § 4-604)

13-405. <u>Duties of the town council</u>. The town council shall:

(1) Upon receipt of a report of the building inspector as provided for in § 13-404(6), give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the

land records of the recorder of deeds of Smith County to appear before him on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein in § 13-403(5).

(2) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the land records of the recorder of deeds of Smith County shall offer relative to the "dangerous building."

(3) Make written findings of fact from the testimony offered pursuant to subsection (2) above as to whether or not the building in question is a dangerous building within the terms of § 13-402 hereof.

(4) Issue an order based upon findings of fact made pursuant to subsection (3) above commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Smith County, to repair, vacate or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building; or any person not the owner of said dangerous building but having an interest in said building as shown by the land records of the recorder of deeds of Smith County may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the town as provided in subsection (5) below.

(5) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (4) above within 10 days, the town council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in § 13-402 of this chapter, and shall with the assistance of the city attorney cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this city, the town council shall notify the city attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

(6) Report to the city attorney the names of all persons not complying with the order provided for in subsection (4) above. (1983 Code, § 4-605)

13-406. Duties of city attorney. The city attorney shall:

(1) Prosecute all persons failing to comply with the terms of the notices provided for herein in 13-404(4) and (5).

(2) Appear at all hearings before the town council in regard to dangerous buildings.

(3) Bring suit to collect all municipal liens, assessments, or costs incurred by the town council in repairing or causing to be vacated or demolished dangerous buildings.

(4) Take such other legal action as is necessary to carry out the terms and provisions of this chapter. $(1983 \text{ Code}, \S 4-606)$

13-407. Duties of fire and police departments. The employees of the fire and police departments shall make a report in writing to the building inspector of all buildings or structures which are, may be, or are suspected of being dangerous buildings within the terms of § 13-402. Such reports must be delivered to the building inspector within twenty-four (24) hours of the discovery of such buildings or structures by said employees. (1983 Code, § 4-607)

13-408. <u>Emergency cases</u>. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated, or demolished, the building inspector shall report such facts to the town council and the town council shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided in § 13-405(5). (1983 Code, § 4-608)

13-409. When owner absent from town. In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the town all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Smith County to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service. (1983 Code, \S 4-609)

13-410. <u>Standards to be applied by the building inspector and</u> <u>town council</u>. The following standards shall be followed in substance by the building inspector and town council in ordering the vacation, removal, repair or demolition of any structure or building:

(1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter it shall be ordered repaired.

(2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.

(3) In any case where a dangerous building is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the city or statute of the State of Tennessee, it shall be demolished. (1983 Code, § 4-610)

13-411. <u>Violation: penalties</u>. The owner of any dangerous building or structure who shall fail to comply with any notice or order to vacate, remove, repair or demolish said building or structure given by any person authorized by this chapter to issue such notice or order shall be guilty of a misdemeanor and upon conviction shall be punished under the general penalty provision of this code.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said structure or building in accordance with notice given in accordance with this chapter shall be guilty of a misdemeanor and upon conviction shall be punished according to the general penalty provision of this code. (1983 Code, § 4-611)

13-412. <u>Administrative liability</u>. No officer, agent, or employee of the Town of Carthage shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent, or employee of the Town of Carthage as a result of any act required or permitted in the discharge of his duties under this duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein. (1983 Code, § 4-612)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation and membership.14-102. Organization, rules, staff, and finances.

14-101. <u>Creation and membership</u>. Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members first appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the city council shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1983 Code, § 11-101)

14-102. Organization, rules, staff, and finances. The municipal planning commission shall elect its chairman from amongst its appointive members. The term of chairman shall be one year with eligibility for reelection. The commission shall adoptrules for transactions, findings, and determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work and may contract with town planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the town council.

The planning commission shall carry out its powers, functions, and duties in accordance with all applicable provisions of <u>Tennessee Code Annotated</u>, title 13. (1983 Code, § 11-102)

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Carthage shall be governed by Ordinance #261, titled "Zoning Ordinance, Carthage, Tennessee," and any amendments thereto.¹

¹Ordinance #261, and Ord. #262, which adopts the flood plain zoning ordinance as appendix A to the official zoning ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

Amendments to the zoning map are of record in the office of the city recorder.

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. VEHICLE WEIGHT LIMITATIONS.
- 8. ENFORCEMENT.
- 9. FINANCIAL RESPONSIBILITY.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

¹Municipal code reference

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

²State law references

Under <u>Tennessee Code Annotated</u>, § 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 <u>Tennessee Code Annotated</u>, § 55-10-401; failing to stop after a traffic accident, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-101, <u>et seq</u>.; driving while license is suspended or revoked, as prohibited by <u>Tennessee Code Annotated</u>, § 55-7-116; and drag racing, as prohibited by <u>Tennessee Code Annotated</u>, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.

15-101. <u>Motor vehicle requirements</u>. 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 <u>Tennessee Code</u> <u>Annotated</u>, title 55, chapter 9. (1983 Code, § 9-101)

15-102. <u>Driving on streets closed for repairs, etc</u>. 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. (1983 Code, § 9-106)

15-103. <u>**Reckless driving**</u>. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1983 Code, § 9-107)

15-104. <u>**One-way streets**</u>. 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. (1983 Code, § 9-109)

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

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

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

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1983 Code, § 9-110) **15-106.** <u>Laned streets</u>. 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. (1983 Code, § 9-111)

15-107. <u>Yellow lines</u>. On streets with a yellow line placed to the right of any lane 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. (1983 Code, § 9-112)

15-108. <u>Miscellaneous traffic-control signs, etc</u>.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the town. (1983 Code, § 9-113)

15-109. <u>General requirements for traffic-control signs, etc</u>. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the <u>Manual on Uniform Traffic Control Devices for Streets and Highways</u>,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 town. This section shall not be construed as being mandatory but is merely directive. (1983 Code, § 9-114)

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

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.

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. (1983 Code, § 9-115)

15-111. <u>Presumption with respect to traffic-control signs, etc</u>. 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. (1983 Code, § 9-116)

15-112. <u>School safety patrols</u>. 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. (1983 Code, § 9-117)

15-113. <u>Driving through funerals or other processions</u>. 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. (1983 Code, § 9-118)

15-114. <u>Clinging to vehicles in motion</u>. 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. (1983 Code, § 9-120)

15-115. <u>Riding on outside of vehicles</u>. 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. (1983 Code, § 9-121)

15-116. <u>Backing vehicles</u>. 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. (1983 Code, § 9-122)

15-117. <u>Projections from the rear of vehicles</u>. 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. (1983 Code, § 9-123)

15-118. <u>Causing unnecessary noise</u>. 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. (1983 Code, § 9-124)

15-119. <u>Vehicles and operators to be licensed</u>. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1983 Code, § 9-125)

15-120. <u>Passing</u>. 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.

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. (1983 Code, \S 9-126)

15-121. <u>Damaging pavements</u>. No person shall operate upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1983 Code, § 9-119)

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. <u>Authorized emergency vehicles defined</u>. 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. (1983 Code, § 9-102)

15-202. <u>Operation of authorized emergency vehicles</u>.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 all 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 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

¹Municipal code references

Fire scene control and emergency-vehicle right of way: title 7, chapter 4.

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

consequences of his reckless disregard for the safety of others. (1983 Code, § 9-103)

15-203. <u>Following emergency vehicles</u>. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling 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. (1983 Code, § 9-104)

15-204. <u>Running over fire hoses, etc</u>. 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. (1983 Code, \S 9-105)

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones and near playgrounds.
- 15-304. In congested areas.

15-301. <u>In general</u>. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed which is unreasonable or improper based upon such traffic conditions as may exist at the time. Posted speed limits shall apply only if the rate of speed at the time is reasonable and proper. (1983 Code, § 9-201)

15-302. <u>At intersections</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1983 Code, § 9-202)

15-303. <u>In school zones and near playgrounds</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limits have been posted by authority of the town. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1983 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 town. (1983 Code, § 9-204)

TURNING MOVEMENTS

SECTION

15-401. Signals.

- 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. <u>Signals</u>. 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 signaling his intention in accordance with the requirements of the state law.¹ (1983 Code, § 9-301, modified)

15-402. <u>**Right turns</u>**. Both the approach for a right turn and a right turn shall be made as closely as practicable to the right hand curb or edge of the roadway. (1983 Code, § 9-302)</u>

15-403. <u>Left turns on two-way roadways</u>. 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. (1983 Code, \S 9-303)

15-404. Left turns on other than two-way roadways. 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. (1983 Code, § 9-304)

15-405. <u>U-turns</u>. U-turns are prohibited. (1983 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

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. <u>Upon approach of authorized emergency vehicles</u>.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 or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1983 Code, § 9-401)</u>

15-502. <u>When emerging from alleys, etc</u>. 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. (1983 Code, \S 9-402)

15-503. <u>To prevent obstructing an intersection</u>. 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. (1983 Code, § 9-403)

¹Municipal code reference

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

15-504. <u>At railroad crossings</u>. 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 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. (1983 Code, § 9-404)

15-505. <u>At "stop" signs</u>. 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. (1983 Code, § 9-405)

15-506. <u>At "yield" signs</u>. 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. (1983 Code, § 9-406)

15-507. <u>At traffic-control signals generally</u>. 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) <u>Green alone, or "Go"</u>:

(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) <u>Steady yellow alone, or "Caution"</u>:

(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) <u>Steady red alone, or "Stop"</u>:

(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.

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

(4) <u>Steady red with green arrow:</u>

(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. (1983 Code, \S 9-407)

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

(a) <u>Flashing red (stop signal)</u>. 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) <u>Flashing yellow (caution signal)</u>. 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. (1983 Code, § 9-408)

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

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

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1983 Code, § 9-409)

15-510. <u>Stops to be signaled</u>. 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. (1983 Code, § 9-410)

¹State law reference <u>Tennessee Code Annotated</u>, § 55-8-143.

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Parking in the downtown area.
- 15-606. Loading and unloading zones.
- 15-607. Loading and unloading zones in the downtown area.
- 15-608. Regulation by parking meters.
- 15-609. Lawful parking in parking meter spaces.
- 15-610. Unlawful parking in parking meter spaces.
- 15-611. Unlawful to occupy more than one parking meter space.
- 15-612. Unlawful to deface or tamper with meters.
- 15-613. Unlawful to deposit slugs in meters.
- 15-614. Presumption with respect to illegal parking.
- 15-615. Commercial traffic on class "B" streets.

15-601. <u>Generally</u>. Except as hereinafter provided, every vehicle parked upon a street within this municipality shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley 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. (1983 Code, § 9-501)

15-602. <u>Angle parking</u>. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall

¹Municipal code reference

Definition of fire district: title 7, chapter 1.

Change 4, June 27, 2013

angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1983 Code, § 9-502)

15-603. <u>Occupancy of more than one space</u>. 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. (1983 Code, § 9-503)

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

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.

(6) Within 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 town. (1983 Code, § 9-504)

15-605. <u>Parking in the downtown area</u>. (1) Parking will be restricted for two (2) hours on Main Street, East Third Avenue, West Third Avenue and Water Street as posted between the hours of 8:00 A.M. and 5:00 P.M. Monday through Saturday.

(2) Each separate offense shall be punishable by a fine of five dollars (\$5.00).

(3) Persons not paying the established fine within seven (7) days shall be cited to appear in city court where they shall be subject to an additional fine of not to exceed \$50.00 plus court costs.

(4) The punishment for parking violations defined in § 15-604(12) shall be the same as set forth in this section for downtown parking violations. (Ord. #254, June 1993, as amended by Ord. #391, Jan. 2013)

15-606. <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or

unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1983 Code, § 9-505)

15-607. <u>Loading and unloading zones in the downtown area</u>. The Carthage City Council may grant or revoke loading zones to be used by the downtown merchants for the sole purpose of loading and unloading merchandise and equipment for the operation of their business and for no other purpose.

Use of a loading zone other than for the loading and unloading of merchandise and equipment shall be punishable by a fine no less than \$20.00, but no more than \$50.00 for each offense.

It is further ordained that business owners and their employees shall not use the loading zones for any purpose other than loading and unloading of merchandise and equipment and the third conviction of said persons for a loading zone violation shall cause a permanent revocation of their loading zone privileges. (Ord. #255, Oct. 1993)

15-608. <u>Regulation by parking meters</u>. In the absence of an official sign to the contrary which has been installed by the town, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the city council, parking shall be regulated by parking meters where the same have been installed by the town. The presumption shall be that all installed parking meters were lawfully installed by the town. (1983 Code, § 9-506)

15-609. <u>Lawful parking in parking meter spaces</u>. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1983 Code, § 9-507)

15-610. <u>Unlawful parking in parking meter spaces</u>. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1983 Code, § 9-508)

15-611. <u>Unlawful to occupy more than one parking meter space</u>. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1983 Code, § 9-509)

15-612. <u>Unlawful to deface or tamper with meters</u>. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1983 Code, \S 9-510)

15-613. <u>Unlawful to deposit slugs in meters</u>. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1983 Code, § 9-511)

15-614. <u>Presumption with respect to illegal parking</u>. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1983 Code, § 9-512)

15-615. <u>Commercial traffic on class "B" streets</u>. (1) No vehicle as defined herein, shall be permitted to operate on any city street which is classified as a "Class B" street according to § 15-702 of this code, without prior approval of the chief of police.

(2) For the purposes of this section, any commercial vehicle and attachment(s) which exceed 10,000 pounds or exceeds a combined length of 40 feet shall be subject to this provision. Vehicle attachments are defined by way of example, but not limited to, any nonmotorized trailer which normally attaches to a vehicle used to tow or pull same. (Ord. #287, Oct. 1998)

VEHICLE WEIGHT LIMITATIONS

SECTION

15-701. Definitions.

- 15-702. Streets classified.
- 15-703. No vehicle weight limits on class "A" streets.

15-704. Vehicle weight limits on class "B" streets.

- 15-705. Permit to exceed weight limits.
- 15-706. Wheel restrictions.
- 15-707. Penalty.

15-701. <u>Definitions</u>. Wherever the words "vehicle," "truck" or "tractor" are used herein all combinations of vehicles, trucks and tractors using a single motive power is intended and the above terms shall be understood to include road, buildings or construction equipment of all descriptions and types. (1983 Code, § 9-701)

15-702. <u>Streets classified</u>. Two classifications of streets, roads and alleyways within the town are created as follows:

(1) Class "A" streets shall consist of Highway No. 25, also know as Main Street.

(2) Class "B" streets shall consist of all other roads, streets or alleys within the town, not specifically designated as class "A." (1983 Code, § 9-702)

15-703. <u>No vehicle weight limits on class "A" streets</u>. It shall be lawful to operate a vehicle of any weight, not otherwise prohibited by law, over class "A" streets. (1983 Code, § 9-703)

15-704. <u>Vehicle weight limits on class "B" streets</u>. It shall be unlawful to operate a vehicle whose gross weight, including its load, shall exceed 10,000 pounds, over class "B" streets. (1983 Code, § 9-704, as amended by Ord. #288, Oct. 1998)

15-705. <u>Permit to exceed weight limits</u>. Upon the filing of a written application accompanied by a fee of \$10 signed by the owner of the vehicle for a permit therefor with the secretary and treasurer, and if it be made to appear to the satisfaction of the mayor from such application that, either:

(1) The operation of a vehicle in excess of the weight limit over a street or streets of any class is necessary in the furtherance of the construction of any building or structure, including driveways or private roads, within the Town of Carthage, for which a building permit has already been issued by the Town of Carthage, or in the maintenance of an existing building; or

(2)The point of origins, or destination of the vehicle is so located within the town that it cannot be reached without violation of the weight limits stated above and that it is not reasonably possible to divide or transfer the load or cargo of the vehicle so as to place same on vehicles whose gross weight will be in compliance with the weight limits stated above; then, and in either such case, the mayor may issue a permit to such owner to pass over any designed streets, despite the weight limitations set out above, which permit shall specify the date or dates on which it shall be valid, the approximate loaded weight of such vehicle, and the route to be followed by such vehicle. Provided, that if in the judgment of the mayor the proposed load is of such excessive weight that it is reasonably calculated to damage or injure any street culvert or bridge along the proposed route, he may, as a condition of granting the permit, require the applicant to post a bond payable to the town with good and sufficient sureties, in such penal sum as in the judgment of the mayor will adequately indemnify the town against such possible damage. (1983 Code, § 9-705)

15-706. <u>Wheel restrictions</u>. It shall be unlawful to drive or operate a tractor upon any street of either classification, or upon any pavement or sidewalk unless the wheels are properly equipped with rubber tires or otherwise so protected that the streets, highways, pavements and sidewalks shall not be damaged. (1983 Code, § 9-706)

15-707. <u>Penalty</u>. Any person, firm or corporation which violates any provision of this chapter shall be fined according to the general penalty provision of this code. (1983 Code, § 9-707)

ENFORCEMENT

SECTION

- 15-801. Issuance of traffic citations.
- 15-802. Failure to obey citation.
- 15-803. Illegal parking.
- 15-804. Impoundment of vehicles.
- 15-805. Violation and penalty.

15-801. <u>Issuance of traffic citations</u>.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. (1983 Code, § 9-802)

15-802. <u>Failure to obey citation</u>. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1983 Code, § 9-803)

15-803. <u>Illegal parking</u>. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1983 Code, § 9-804, modified)

15-804. <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72)

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored. If the owner claims it, gives satisfactory evidence of ownership and pays all applicable fees and costs, he may recover same. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost of one dollar (\$1.00) per day shall also be charged for thirty days. (1983 Code, § 9-801)

15-805. <u>Violation and penalty</u>. Any violation of this <u>title</u> shall be a civil offense punishable as follows:

(1) <u>Traffic citations</u>. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) <u>Parking citations</u>. (a) <u>Parking meter</u>. If the offense is a parking meter violation, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of one dollar (\$1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be three dollars (\$3.00).

(b) <u>Other parking violations</u>. For other parking violations, except for those set out in §§ 15-605 and 15-607, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00). (1983 Code, § 9-804, modified)

FINANCIAL RESPONSIBILITY

SECTION

- 15-901. Compliance with financial responsibility law required.
- 15-902. Civil offense.
- 15-903. Evidence of compliance after violation.

15-904. Compliance with TCA § 16-18-302(a).

15-901. Compliance with financial responsibility law required.

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

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

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

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

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

c. The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent. (as added by Ord. #314, May 2002)

15-902. <u>Civil offense</u>. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this chapter. Any violation of this chapter is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty

Change 2, November 9, 2006

prescribed by this chapter shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances. (as added by Ord. #314, May 2002)

15-903. Evidence of compliance after violation. On or before the court date, the person charged with a violation of this chapter may submit evidence of compliance with this chapter in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #314, May 2002)

15-904. <u>Compliance with TCA § 16-18-302(a)</u>. The section shall be adopted, to comply with the enabling statue of TCA § 16-18-302(a), which grants authority to the municipal courts to possess concurrent jurisdiction for the enforcement of financial responsibility laws as codified in <u>Tennessee Code</u> <u>Annotated</u>, § 55-12-139, <u>et seq</u>. (as added by Ord. #352, Nov. 2006)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS AND CUTS.
- 3. NUMBERING OF BUILDINGS AND NAMING OF STREETS.
- 4. EXCAVATION SAFETY POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

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

16-101. <u>**Obstructing streets, alleys, or sidewalks prohibited**</u>. 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. (1983 Code, § 12-101)

16-102. <u>Trees projecting over streets, etc., regulated</u>. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1983 Code, § 12-102)

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

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1983 Code, § 12-103)

16-104. <u>Projecting signs and awnings, etc., restricted</u>. 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 (1983 Code, § 12-104)

16-105. <u>Banners and signs across streets and alleys restricted</u>. 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 city council. (1983 Code, § 12-105, modified)

16-106. <u>Gates or doors opening over streets, alleys, or sidewalks</u> <u>prohibited</u>. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1983 Code, § 12-106)

16-107. <u>Littering streets, alleys, or sidewalks prohibited</u>. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1983 Code, § 12-107)

16-108. <u>Obstruction of drainage ditches</u>. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1983 Code, § 12-108)

16-109. <u>Abutting occupants to keep sidewalks clean, etc</u>. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1983 Code, § 12-109)

16-110. <u>**Parades, etc., regulated**</u>. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder

¹Municipal code reference

Building code: title 12, chapter 1.

unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1983 Code, § 12-110, modified)

16-111. <u>Animals and vehicles on sidewalks</u>. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1983 Code, § 12-112)

16-112. <u>Fires in streets, etc</u>. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1983 Code, \S 12-113)

EXCAVATIONS AND CUTS¹

SECTION

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

16-201. <u>Permit required</u>. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1983 Code, § 12-201, modified)

16-202. <u>Applications</u>. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of <u>City of Paris</u>, <u>Tennessee v. Paris-Henry County Public Utility District</u>, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1983 Code, § 12-202, modified)

16-203. <u>Fee</u>. The fee for such permits shall be twenty dollars (\$20.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1983 Code, § 12-203, modified)

16-204. <u>Deposit or bond</u>. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1983 Code, § 12-204, modified)

16-205. <u>Manner of excavating--barricades and lights--temporary</u> <u>sidewalks</u>. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1983 Code, § 12-205)

16-206. <u>Restoration of streets, etc</u>. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the

recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1983 Code, § 12-206, modified)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1983 Code, § 12-207, modified)

16-208. <u>Time limits</u>. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1983 Code, § 12-208, modified)

16-209. <u>Supervision</u>. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1983 Code, § 12-209, modified)

16-210. <u>Driveway curb cuts</u>. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is

to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided to separate said driveways. Driveway aprons shall not extend out into the street. (1983 Code, § 12-210, modified)

NUMBERING OF BUILDINGS AND NAMING OF STREETS

SECTION

- 16-301. Building numbering system established.
- 16-302. Baseline streets established.
- 16-303. Building numbering standards.
- 16-304. Numbering of buildings facing streets not extending through baseline.
- 16-305. Street directional designations.
- 16-306. Application of building numbering system; posting notices.
- 16-307. Responsibility of the recorder to maintain building numbering system.
- 16-308. Penalty.
- 16-309. Naming of streets.

16-301. <u>Building numbering system established</u>. There is hereby established a uniform system for numbering buildings fronting on all streets, avenues, and public ways in the Town of Carthage, and all houses and other buildings shall be numbered in accordance with the provisions of this chapter. (1983 Code, § 12-301)

16-302. <u>Baseline streets established</u>. First Avenue will constitute the base line which will divide the town into northern and southern parts. Hereafter all streets north of this base line and running generally in a northerly-southerly direction shall be considered "north" streets, and likewise all streets south of this base line and running generally in a northerly-southerly direction shall be considered "south" streets. Main Street shall be considered the base line which divides the city into east and west parts. Hereafter streets east of this base line and running in a generally easterly-westerly direction shall be considered "east" streets and likewise streets west of Main Street and running in a generally "easterly-westerly direction" shall be considered "west" streets. Building numbers shall be established for said base line as follows:

(1) Each building north of First Avenue and facing a street running in a northerly direction shall carry a number indicating its location north of said base street.

(2) Each building south of the north-south base line and facing a street shall carry a number indicating its location south of said street.

(3) Each building east of Main Street and facing a street running in an easterly direction shall carry a number and address indicating its location east of said base street.

(4) Each building west of Main Street, and facing a street running in a westerly direction shall carry a number and address indicating its location west of said base street. (5) All buildings on diagonal streets shall be numbered the same as buildings on northerly-southerly streets if the diagonal runs more from the north to the south, and the same rule shall apply on easterly and westerly streets if the diagonal runs more from the east to the west. (1983 Code, \S 12-302)

16-303. <u>Building numbering standards</u>. The numbering of buildings on each street shall begin at the base line. All numbers shall be assigned on the basis of one number for each 50 feet of frontage along the street in residential areas and one number for each 15 feet of frontage along the street in the central business district. Grid lines, as shown on the property numbering map, indicate the point at which numbers will change from one hundred to the next higher hundred. All buildings on the south of east-west streets and east of north-south street shall bear odd numbers, and likewise all buildings on the north side of east-west streets and west of north-south streets shall bear even numbers. In addition:

(1) Where any building has more than one entrance serving separate occupants, a separate number shall be assigned to each entrance serving an occupant.

(2) The building shall be assigned the number of 50 or 15 foot intervals in which the main entrance of the building falls. In measuring the 50 or 15 foot intervals of street frontage, if the main entrance of the building falls exactly upon the line which divides a 50 foot or 15 foot interval from the next higher interval, either the number of the lower interval or the number of the next higher interval will be assigned to that entrance.

(3) A multiple family dwelling having only one main entrance shall be assigned only one number, and separate apartments in the building will carry a letter designation such as A, B, C, in addition to the number assigned to the main entrance building.

(4) The duplex houses having two front entrances shall have a separate number for each entrance. In the event that both entrances fall within the same increment, either the preceding number or next highest number shall be used for one entrance number, and the interval number in which the entrances fall shall be used for the other entrance. (1983 Code, § 12-303)

16-304. <u>Numbering of buildings facing streets not extending</u> <u>through base line</u>. All buildings facing streets not extending through the base line shall be assigned the same relative numbers as if the said street had extended to the said base line. (1983 Code, § 12-304)

16-305. <u>Street directional designations</u>. In addition to the numbers placed on each house or other building as heretofore provided, all streets, avenues and other public ways within the town are hereby given the following directional designations:

(1) All streets east of Main Street and running in an easterly direction are given the direction east as part of the street name.

(2) All streets west of Main Street and running in a westerly direction are given the direction west as a part of the street name.

(3) The portion of Spring Street that extends south of the base line will be given the direction south as part of the street name. (1983 Code, § 12-305)

16-306. <u>Application of building numbering system</u>; posting <u>notices</u>. (1) All properties or parcels of land within the corporate limits of Carthage shall hereafter be identified by reference to the uniform numbering system adopted herein, provided. All existing numbers of property and buildings not now in conformity with provisions of this chapter shall be changed to conform to the system herein adopted within six months from the date of passage of this chapter.

(2) Numerals indicating the official numbers for each principal building of each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. Such numerals may be obtained without charge from the recorder, as provided in § 16-307. (1983 Code, § 12-306)

16-307. <u>Responsibility of the recorder to maintain numbering</u> <u>system</u>. (1) The recorder shall be responsible for maintaining the numbering system. In the performance of this responsibility he shall be guided by the provisions of this section.

(2) The recorder shall keep a record of all numbers assigned under this chapter.

(3) The recorder shall issue to any property owners in Carthage upon request and without charge a set of numerals for each principal building or separate front entrance to such building. In doing so, he shall issue only numbers for the number assigned to such buildings under the provisions of this chapter. Provided, however, that the recorder may issue additional numerals in accordance with the official numbering system whenever a property has been sub-divided, a new front entrance opened, or undue hardship has been worked on any property owner. (1983 Code, § 12-307)

16-308. <u>Penalty</u>. Violations of this chapter shall be a misdemeanor and may be punished under the general penalty provision of this code. (1983 Code, § 12-308)

16-309. <u>Naming of streets</u>. By resolution the city council shall assign names to new streets, to streets with duplicate names, and to streets which do not bear the same name the full length of the street. (1983 Code, § 12-309)

EXCAVATION SAFETY POLICY

SECTION

16-401. Purpose.

16-402. Trench excavations.

16-403. Safety precautions.

16-404. Other hazards.

16-401. <u>Purpose</u>. Trenching and excavation work poses serious risks to all workers involved. The primary hazard, however, for excavation workers, is from cave-ins. When cave-ins occur, they are much more likely to result in worker fatalities than other excavation-related accidents. The Town of Carthage has developed these policies and procedures and requires strict compliance to prevent or greatly reduce the risk of cave-ins as well as other excavation-related accidents.

The Occupational Safety and Health Administration (OSHA) requires that employees exposed to cave-in hazards be protected by

- (1) Sloping or benching the sides of the excavation,
- (2) By supporting the sides of the excavation, or

(3) By placing a shield between the side of the excavation and the work area. (as added by Ord. #312, Jan. 2002)

16-402. <u>**Trench excavations**</u>. (1) <u>Sloping</u>. The safety and health of excavation workers can be ensured by effectively sloping the sides of a trench or excavation to an angle not steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal). A slope of this gradation or less is considered safe for any type of soil.

All simple slop excavations of 16 feet or less in depth shall have a maximum allowable slope of 1 and 1/2:1. Any excavations of greater depth than 16 feet will be undertaken by an outside contractor.

(2) <u>Trench boxes and shields</u>. Trench boxes and shields designed or approved by a registered professional engineer, or based on data prepared or approved by a registered professional engineer, may be used to ensure the safety of excavation workers. Trench boxes may be constructed of timber, aluminum, or other suitable material as may be approved by a registered professional engineer.

(3) <u>Responsibility</u>. It shall be the responsibility of the town's public works supervisor or manager to ensure that all excavations, where city employees are carrying out the excavation, or a contractor employed by the city, are carried out using either the sloping or trench boxes and shield safety methods. Under no circumstances shall the supervisor or manager permit an excavation of more than four feet in dept without using proper sloping or trench boxes and shields, unless the public works supervisor has determined that the excavation is made entirely in stable rock, is less than four feet deep, or an examination of the ground finds no indiction of a potential cave-in. (as added by Ord. #312, Jan. 2002)

16-403. <u>Safety precautions</u>. (1) <u>Stability of structures</u>. Adjacent structures such as buildings, walls, sidewalks or pavements shall be shored, braced, or underpinned to ensure stability. Excavations shall not be undertaken below the level of the base or footing of any foundation or retaining wall unless

- (a) A support system such as underpinning is provided,
- (b) The excavation is in stable rock, or

(c) A registered professional engineer determines that the structure is sufficiently removed from the excavation and that the excavation will not pose a hazard to employees.

Excavations under sidewalks and pavements are also prohibited unless an appropriately designed support system is provided.

(2) <u>Installation and removal of protective systems</u>. (a) Installing support systems shall be undertaken in accordance with the following procedures for the protection of employees:

- (i) Securely connect members of support systems,
- (ii) Safely install support systems,
- (iii) Never overload members of support systems, and

(iv) Install other structural members to carry loads imposed on the support system when temporary removal of individual members is necessary.

(b) Excavations of 2 feet or less below the bottom of the members of a support or shield system of a trench may be undertaken if

(i) The system is designed to resist the forces calculated for the full depth of the trench, and

(ii) There are no indications, while the trench is open, of a possible cave-in below the bottom of the support system. Also, the installation of support systems must be closely coordinated with the excavation of trenches.

Upon completion of the work, the excavation should be back filled as the protective system is dismantled. After the excavation has been cleared, workers should slowly remove the protective system from the bottom up, taking care to release members slowly.

(3) <u>Materials and equipment</u>. The Town of Carthage is responsible for the safe condition of materials and equipment used for protective systems. Defective and damaged materials and equipment can result in the failure of a protective system and cause excavation hazards.

The public works supervisor or manager of the Town of Carthage must ensure that

(a) Materials and equipment are free from damage or defects,

(3) While in operation, damaged materials and equipment are examined by a competent person to determine if they are suitable for continued use. If materials and equipment are not safe for use, they must be removed from service. These materials cannot be returned to service without the evaluation and approval of a registered professional engineer. (as added by Ord. #312, Jan. 2002)

16-404. <u>Other hazards</u>. (1) <u>Exposure to falls, falling loads, and mobile</u> equipment. In addition to cave-in hazards and secondary hazards related to cave-ins, there are other hazards from which workers must be protected during excavation-related work. These hazards include exposure to falls, falling loads, and mobile equipment. To protect employees from these hazards, the public works supervisor or manager shall take the following precautions:

(1) Keep materials or equipment that might fall or roll into an excavation at least 2 feet from the edge of excavations, or have retaining devices, or both.

(2) Provide warning systems such as mobile equipment, barricades, hand or mechanical signals, or stop logs, to alert operators of the edge of an excavation. If possible, keep the grade away from the excavation.

(3) Provide scaling to remove loose rock or soil or install protective barricades and other equivalent protection to protect employees against falling rock, soil, or materials.

(4) Prohibit employees from working on faces of sloped or benched excavations at levels above other employees unless employees at lower levels are adequately protected from the hazard of falling, rolling, or sliding material or equipment.

(5) Prohibit employees under loads that are handled by lifting or digging equipment. To avoid being struck by any spillage or falling materials, require employees to stand away from vehicles being loaded or unloaded. If cabs of vehicles provide adequate protection from falling loads during loading and unloading operations, the operators may remain in them.

(2) <u>Water accumulation</u>. Employees are prohibited from working in excavations where water has accumulated or is accumulating unless adequate protection has been taken. If water removal equipment is used to control or prevent water from accumulating, the equipment and operations of the equipment must be monitored by a competent person to ensure proper use.

Diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering an excavation and to provide adequate drainage of the area adjacent to the excavation. The supervisor of public works must inspect excavations subject to runoffs from heavy rains.

(3) <u>Hazardous atmospheres</u>. The public works supervisor or manager shall test excavations greater than 4 feet in depth as well as ones where oxygen deficiency or a hazardous atmosphere exists or could reasonably be expected to exist, before an employee of the city enters the excavation. If hazardous conditions exist, controls such as proper respiratory protection or ventilation must be provided. Controls used to reduce atmospheric contaminants to acceptable levels must be tested regularly.

Where adverse atmospheric conditions may exist or develop in an excavation, the employer also must provide and ensure that emergency rescue equipment, (e.g., breathing apparatus, a safety harness and line, basket stretcher, etc.) is readily available and attended when used.

When an employee of the town enters bell-bottom pier holes and similar deep and confined footing excavations, the employee must wear a harness with a lifeline. The lifeline must be securely attached to the harness and must be separate from any line used to handle materials. While the employee wearing the lifeline is in the excavation, an observer must be present to ensure that the lifeline is working properly and to maintain communication with the employee.

(4) <u>Access and egress</u>. The Town of Carthage must provide safe access and egress to all excavations. When employees are required to be in trench excavations 4 feet deep or more, adequate means of exit, such as ladders, steps, ramps or other safe means of egress, must be provided and be within 25 feet of lateral travel. If structural ramps are used as a means of access or egress, they must be designed by a professional engineer if used for employee access or egress, or a competent person qualified in structural design if used by vehicles. Structural members used for ramps or runways must be uniform in thickness and joined in a manner to prevent tripping or displacement. (as added by Ord. #312, Jan. 2002)

TITLE 17

<u>REFUSE AND TRASH DISPOSAL</u>¹

CHAPTER

1. REFUSE.

CHAPTER 1

<u>REFUSE</u>

SECTION

17-101. Definitions.

17-102. Premises to be kept clean.

17-103. Storage.

17-104. Location of containers.

17-105. Confiscation of unsatisfactory storage containers.

17-106. Disturbing containers.

17-107. Collection.

17-108. Collection vehicles.

17-109. Disposal.

17-110. Schedule of fees for collection, removal and disposal.

17-111. Collection and billing of fees.

17-112. Penalty.

17-113. Violations and enforcement.

17-114. Prohibited substances and practices.

17-101. <u>Definitions</u>. (1) "Refuse" shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks and similar materials are expressly excluded therefrom and shall not be stored therewith.

(2) "Commercial refuse" means solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, office or professional building, shopping center, multiple business complex, commercial housing facility, church, club or other similar organizations.

(3) "Residential refuse" means garbage resulting from the operation and maintenance of dwelling units, excluding commercial housing facilities.

(4) "Refuse generator" is any residence, church, business, industry, public facility or others that generate refuse.

¹Municipal code reference

Property maintenance regulations: title 13.

(5) "Bulk container" is a dumpster container with a capacity of four to eight cubic yards that remains at the point of collection designated by the city. (Ord. #265, Dec. 1995)

17-102. <u>Premises to be kept clean</u>. All persons within the municipality are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided herein. (Ord. #265, Dec. 1995)

17-103. <u>Storage</u>. Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Carthage where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. All trash must be in a closed bag and placed inside the designated container; and the refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons. Furthermore, the combined weight of any refuse container and its contents shall not exceed thirty-five (35) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. (Ord. #265, Dec. 1995, as amended by Ord. #379, Aug. 2011)

17-104. <u>Location of containers</u>. Residential refuse collection will be at the premises at a frequency of one (1) time per week. All refuse must be brought to the curb for pick-up, unless resident is unable to move refuse. A physician and/or competent medical professional's statement will be required as proof of this. In these cases, contractor shall provide rear yard pickup of refuse. (Ord. #265, Dec. 1995, as replaced by Ord. #379, Aug. 2011)

17-105. <u>Confiscation of unsatisfactory storage containers</u>. The official refuse collecting agency of the town is hereby authorized to confiscate or to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when at the discretion of the sanitation supervisor such containers are not suitable for the healthful and sanitary storage of refuse substances. Such unsatisfactory containers shall be removed and disposed of at a place and in a manner designated by the official collecting agency only after the owner or owners of such containers have been duly notified of such impending action. (Ord. #265, Dec. 1995)</u>

17-106. <u>Disturbing containers</u>. 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. (Ord. #265, Dec. 1995)

17-3

17-107. <u>Collection</u>. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of the sanitation supervisor as the town council shall designate. Collections shall be made regularly in accordance with an announced schedule. (Ord. #265, Dec. 1995)

17-108. <u>Collection vehicles</u>. 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. (Ord. #265, Dec. 1995)

17-109. <u>**Disposal**</u>. The disposal of refuse in any quantity by any person in any place, public or private, other than at the sites designated for refuse disposal by the town council is expressly prohibited. (Ord. #265, Dec. 1995)

17-110. <u>Schedule of fees for collection, removal and disposal</u>. The town council shall establish, by resolution, a schedule of fees for collection, removal and disposal of all refuse for residential and commercial establishments. A copy of the schedule shall be kept in the city recorder's office for public inspection. (Ord. #265, Dec. 1995)

17-111. <u>Collection and billing of fees</u>. Cost of collection services of garbage and refuse shall be defrayed by each person, business, or firm, etc. who is using town garbage service or having access to such service, paying a sum to be established by a resolution of the town council. The fee for collection, removal and disposal of refuse by the town shall be included as a separate item on the water bill. The accounts shall be paid at the same time water bills are paid. The fee may be waived at the discretion of the council for such businesses that employs a private refuse hauling service that complies with §§ 17-106, 17-107, 17-108, and 17-113 of this chapter. The fee for collection will become delinquent after the service has been rendered and fees are not paid in full at the time water bills are due. (Ord. #265, Dec. 1995)</u>

17-112. <u>Penalty</u>. The fee for the collection, removal and disposal of refuse shall be paid monthly at the same time water bills are paid. A 20% penalty will be applied to delinquent bills, and shall remain in effect until fees are paid in full. (Ord. #265, Dec. 1995)

17-113. <u>Violations and enforcement</u>. Any person violating any of the provisions of this chapter shall be served by the town with written notice stating the nature of the violation and providing a 7 days' time limit for the satisfactory

correction thereof. The offender shall within the period of time stated in such notice permanently cease and correct all violations. (Ord. #265, Dec. 1995)

17-114. <u>Prohibited substances and practices</u>. (1) The following substances are hereby prohibited from being deposited with solid wastes collected by the town:

(a) Flammable liquids, solids or gases, such as gasoline, benzine, alcohol or other similar substances;

(b) Any material that could be hazardous or injurious to town employees or which could cause damage to town equipment and/or facilities;

(c) Hazardous waste as defined in <u>Tennessee Code Annotated</u>, § 68-212-104(7) and household hazardous waste as defined in <u>Tennessee</u> <u>Code Annotated</u>, § 68-211-802(7);

(d) Construction waste consisting of materials from construction, demolition, remodeling, construction-site preparation, including but not limited to rocks, bricks, dirt, debris, fill, plaster, guttering, and all types of scrap materials;

(e) Human or animal excrement;

(f) Hot materials such as ashes, cinders, etc.;

(g) Infectious wastes including, but not limited to, those classified by the following:

(i) Isolation wastes. Wastes contaminated by patients who are isolated due to communicable disease as provided in the U.S. Center for Disease Control Guidelines for Isolation Precautions in Hospitals (July 1983).

(ii) Cultures and stocks in infectious agents and associated biological cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents, from research and industrial laboratories, waste from the production of biological, discarded mice and attenuated vaccines.

(iii) Laboratory waste which has come into contact with cultures and stocks of etiologic agents or blood specimens. Such wastes includes, but is not limited to, culture dishes, blood specimen tubes, devices used to transfer, inoculate and mix cultures, paper and cloth which has come into contact with cultures and stock of etiologic agents.

(iv) Human blood and blood products. Waste human blood and blood products such as serum, plasma, and other blood components.

(v) Pathological wastes. Pathological wastes, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy.

(vi) Discarded sharps. All discarded sharps (e.g. hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades, etc.) used in patient care, medical research or industrial laboratories.

(vii) Contaminated animal carcasses, body parts and bedding. Contaminated animal carcasses, body parts and bedding of animals that were intentionally exposed to pathogens in research, in the production of biological or in the invitro testing of pharmaceutical.

(h) Human and/or animal remains.

(i) Automobile, truck and equipment batteries and tires.

(j) It shall be unlawful for any person, firm, or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the Town of Carthage, Tennessee.

(2) It shall be unlawful for any person, firm, or corporation to burn or attempt to burn refuse on private or public property within the corporate limits of the Town of Carthage without first securing the approval of the appropriate town departments having jurisdiction. (Ord. #265, Dec. 1995)

TITLE 18

WATER AND SEWERS¹

CHAPTER

- 1. WATER AND SEWERS.
- 2. SEWER USE ORDINANCE.
- 3. INDUSTRIAL COST RECOVERY.
- 4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWERS²

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service; no service to be provided without charge.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Water and sewer main extensions.
- 18-108. Variances from and effect of preceding section as to extensions.
- 18-109. Meters.
- 18-110. Meter tests.
- 18-111. Multiple services through a single meter.
- 18-112. Billing.
- 18-113. Discontinuance or refusal of service.
- 18-114. Termination of service by customer.
- 18-115. Access to customers' premises.
- 18-116. Inspections.
- 18-117. Customer's responsibility for system's property.
- 18-118. Customer's responsibility for violations.
- 18-119. Supply and resale of water.
- 18-120. Unauthorized use of or interference with water supply.
- 18-121. Limited use of unmetered private fire line.

¹Municipal code references

Building, utility and housing codes: title 12. Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

- 18-122. Damages to property due to water pressure.
- 18-123. Liability for cutoff failures.
- 18-124. Restricted use of water.
- 18-125. Interruption of service.
- 18-126. Schedule of water and sewer rates.

18-101. <u>Application and scope</u>. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1983 Code, § 13-101)

18-102. <u>Definitions</u>. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Household" means any dwelling in which one (1) or more persons resides.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date fifteen (15) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

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

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1983 Code, § 13-102, modified, as amended by Ord. #323, Oct. 2003)

18-103. <u>Obtaining service; no service to be provided without</u> <u>charge</u>. A formal application for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed. No water or sewer service shall be furnished or rendered any person, firm or corporation without charge. (1983 Code, § 13-103)

18-104. <u>Application and contract for service</u>. Each prospective customer desiring water and/or sewer will be required to sign a standard form of contact before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit or other fees, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit and fees made by such applicant. The town will promulgate in a separate document entitled "Town of Carthage Policies, Procedures, Rules and Regulations Manual," concerning the restrictions and requirements of water and sewer service to its customers. The town shall require a refundable \$60.00 deposit for each residential service application plus a \$30.00 non-refundable meter set fee: an \$80.00 refundable deposit for each commercial service application plus a \$30.00 non-refundable meter set fee. Any residential customer who applies for service and has a bad debt shall be required to pay their bad debt in full and their deposit shall be \$80.00 with a non-refundable meter set fee of \$30.00. All deposits shall be refunded only after final bills are paid in full. (Ord. #273, Nov. 1996, as amended by Ord. #323, Oct, 2003, and Ord. #326, May 2004)

18-105. <u>Service charges for temporary service</u>. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1983 Code, § 13-105)

18-106. <u>Connection charges</u>. Service lines will be laid by the town from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

The following schedule shall apply to any customer wishing to connect to the water and sewer system:

<u>Water Tap Schedule:</u>	
5/8"	\$1,000.00
1"	\$1,250.00
$1\frac{1}{2}$ "	\$1,500.00
2"	\$1,750.00
$2\frac{1}{2}$ " or Larger	Billed at Cost to Install
<u>Sewer Tap Schedule</u> :	
All Taps	\$1,250.00

When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box (or

property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1983 Code, § 13-106, as amended by Ord. #323, Oct. 2003, and Ord. #326, May 2004)

18-107. <u>Water and sewer main extensions</u>. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions Ductile iron Class 52 American Water Works Association Standard (or other construction approved by the city council), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 800 feet from the most distant part of any dwelling structure and no farther than 500 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the town in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the town, such water and/or sewer mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1983 Code, § 13-107, as amended by Ord. #323, Oct. 2003)

18-108. <u>Variances from and effect of preceding section as to</u> <u>extensions</u>. Whenever the town council is of the opinion that it is to the best interest of the town and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the town council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. (1983 Code, § 13-108)

18-109. <u>Meters</u>. All meters shall be installed, tested, repaired, and removed only by the town.

Change 1, June 24, 2004

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1983 Code, \S 13-109)

18-110. <u>Meter tests</u>. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$ 40.00
1-1/2", 2"	45.00
3"	270.00
4"	270.00
6" and over	270.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the town. (1983 Code, § 13-110, modified)

18-111. <u>Multiple services through a single meter</u>. No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1983 Code, § 13-111)

18-112. <u>Billing</u>.¹ Bills for residential water and sewer service will be rendered monthly. Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the town. Water and sewer charges shall be collected as a unit; no town employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined water and sewer service bill.

Water and sewer bills must be paid on or before the 15th day of the month in which the bills are rendered. Bills paid after this date shall have added thereto an additional charge of twenty percent (20%). Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date. In the event a customers service is disconnected for non-payment, such service shall not be reconnected until all past due bills are paid in full together with a reconnection fee of \$30.00. Nothing contained herein shall preclude the Town of Carthage from exercising its legal rights of collection of the customer's worthless check through either the civil or criminal court of competent jurisdiction.

Any customer paying for service with a check or bank draft that is returned "insufficient funds" shall be required to make restitution for the amount in full plus a \$25.00 service charge with cash, money order or certified check.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the average of the last three (3) monthly bills. (1983 Code, § 13-112, modified, as amended by Ord. #323, Oct. 2003, and Ord. #326, May 2004)

18-113. <u>Discontinuance or refusal of service</u>. The town shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

¹Municipal code reference:

Refuse; collection fee: § 17-111.

- (1) This ordinance.
- (2) City rules and regulation book.
- (3) The customer's contract for service.

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

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1983 Code, § 13-113, modified, as amended by Ord. #323, Oct. 2003)

18-114. <u>Termination of service by customer</u>. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1983 Code, \S 13-114)

18-115. <u>Access to customers' premises</u>. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1983 Code, § 13-115)

18-116. <u>Inspections</u>. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by town ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1983 Code, § 13-116)

18-117. <u>Customer's responsibility for system's property</u>. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer. (1983 Code, § 13-117)

18-118. <u>Customer's responsibility for violations</u>. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1983 Code, § 13-118)

18-119. <u>Supply and resale of water</u>. All water shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the town. (1983 Code, § 13-119)

18-120. <u>Unauthorized use of or interference with water supply</u>. It shall be unlawful for any person to tamper with or change any water meter or make any unauthorized connection to the water or sewage system, or turn on or off any of the town's stop cocks, valves, hydrants, spigots or fire plugs without permission or authority from the town. (1983 Code, § 13-120)

18-121. <u>Limited use of unmetered private fire line</u>. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

Change 4, June 27, 2013

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1983 Code, § 13-121)

18-122. <u>Damages to property due to water pressure</u>. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1983 Code, § 13-122)

18-123. <u>Liability for cutoff failures</u>. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

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

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

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

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1983 Code, \S 13-123)

18-124. <u>Restricted use of water</u>. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1983 Code, § 13-124)

18-125. <u>Interruption of service</u>. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the town water and sewer systems, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such Change 4, June 27, 2013

interruption of service or for damages from the resumption of service without notice after any such interruption. (1983 Code, § 13-125)

18-126. <u>Schedule of water and sewer rates</u>. (1) The established water rates for customers served by the Town of Carthage Municipal Water System within the city limits are as follows:

<u>Gallons per month</u>	<u>Water rate inside city limits</u>
First 1,000	\$14.55 (minimum)
All over 1,000	\$4.19 per thousand gallons

(2) All established water rates for customers served by the Town of Carthage Municipal Water System outside the city limits are as follows:

<u>Gallons per month</u>	<u>Water rate outside city limits</u>
First 1,000	\$21.99 (minimum)
All over 1,000	\$4.55 per thousand gallons

(3) The established water rates for the Highway 25 Utility District and the Cordell Hull Utility District served by the Town of Carthage Municipal Water System shall be the same as those rates for the customers who reside inside the city limits plus a ten percent (10%) surcharge.

<u>Gallons per month</u>	<u>Water rate for utility districts</u>
First 1,000	\$16.01 (minimum)
All over 1,000	\$4.62 per thousand gallons

(4) The established sewer rates for customers served by the Town of Carthage Municipal Sewer System inside the city limits are as follows:

<u>Gallons per month</u>	<u>Sewer rate inside city limits</u>
First 1,000	\$14.55 (minimum)
All over 1,000	\$4.19 per thousand gallons

(5) The established penalties, fees and water and sewer tap rates for customers inside and outside the city limits are as follows:

<u>Water Deposits</u>	
Homeowners	\$60.00
Renters	\$120.00
Meter Set Fee	\$35.00
Bad Debt Deposit	\$92.00
Reconnect Fee	\$35.00
Returned Check/Bank Draft Fee	\$30.00

All 2" or Larger Meters (Monthly	
Maintenance Fee)	\$50.00
<u>Water Tap Fee Schedule</u>	
5/8"	\$1,250.00
1"	\$1,438.00
1 1/2"	\$1,725.00
2"	\$2,012.00
2 1/2" or Larger	Billed at installation costs
5	

Sewer Rate Schedule

All Taps

\$1,438.00

(1983 Code, § 13-126, as amended by Ord. #251, Nov. 1992, and Ord. #305, Oct. 2000, replaced by Ord. #323, Oct. 2003, amended by Ord. #349, June 2005, Ord. #375, June 2011, Ord. #388, July 2012, and Ord. #394 June 2013)

CHAPTER 2

SEWER USE ORDINANCE

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Use of public sewers.
- 18-204. Building sewers, connections, and permits.
- 18-205. Private domestic wastewater disposal.
- 18-206. Prohibitions and limitations.
- 18-207. Control of prohibited pollutants.
- 18-208. Wastewater discharge permits.
- 18-209. Inspections, monitoring, and entry.
- 18-210. Enforcement.
- 18-211. Wastewater volume determination.
- 18-212. Wastewater, charges and fees.
- 18-213. Administration.
- 18-214. Miscellaneous provisions.

18-201. <u>Purpose and policy</u>. The purpose of this ordinance is to set uniform requirements for users of the town's wastewater collection system and treatment works to enable the town to comply with the provisions of the Clean Water Act and other applicable federal and state laws and regulations, and to provide for the public health and welfare by regulating the quality of wastewater discharged into the town's wastewater collection system and treatment works. This ordinance establishes conditions for connection to the sanitary sewer system. Certain acts which may be detrimental to the sewer This ordinance provides a means for determining system are prohibited. wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to specific users. This ordinance also establishes effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the publicly owned treatment works (POTW) which will interfere with the operation of the POTW, may cause environmental damage, interfere with the use or disposal of sewage sludge; and to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or the atmosphere, or otherwise be incompatible with the treatment works: and to improve the opportunities to recycle and reclaim the wastewater and/or sludge resulting from such treatment. This ordinance provides measures for the enforcement of its provisions and abatement of violations thereof.

This ordinance shall apply to the Town of Carthage and to persons outside the town limits who are, by contract or agreement with the Town of Carthage, users of the Carthage POTW. Except as otherwise provided herein, the superintendent of the Carthage POTW shall administer, implement, and enforce the provisions of this ordinance. (Ord. #246 (91-006), Sept. 1991)

18-202. <u>Definitions</u>. (1) For the purposes of this ordinance, the following phrases and words shall have the meaning defined below:

(a) "Act" or "the act ." The Federal Water Pollution Control Act, also known as the Clean Water Act as amended, 33 U.S.C. 1251, <u>et</u>. <u>seq</u>.

(b) "Approval authority." The State of Tennessee Department of Environment and Conservation.

(c) "Approved pretreatment program." A program administered by a POTW that meets the criteria established in Chapter 40 of the Code of Federal Regulations (40 CFR) of 403.8 and 403.9, and which has been approved by the regional administrator or state director in accordance with 40 CFR 403.11.

(d) "Building sewer." A sewer conveying wastewater from the premises of a user to a community sanitary sewer.

(e) "Bypass." The intentional diversion of wastestreams from any portion of a treatment facility.

(f) "Categorical standards." National pretreatment standards established by the EPA for specific industrial user Standard Industrial Classification (SIC) code categories.

(g) "Combined sewer." A sewer which has been designed to carry both sanitary sewage and storm water runoff.

(h) "Composite sample." Sample consisting of several sample portions collected during a specified period (usually 24 hours) and combined to form a representative sample. Composite samples can be collected on flow proportional or timed basis, depending on the nature of the discharge.

(i) "Conventional pollutant." Biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil and grease.

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

(k) "Discharge monitoring report." A report submitted by an industrial user to the superintendent containing information regarding the nature and concentration of pollutants and flow characteristics of a discharge by the user to the POTW.

(l) "Environmental Protection Agency or EPA." An agency of the United States or its duly authorized representative.

(m) "Grab sample." A single sample of wastewater taken at neither set time or flow.

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

pump tank trucks. This specifically includes wastewater from industrial users can made to the POTW by any means other than by a standard sewer tie-on.

(o) "Indirect discharge." The discharge or the introduction of pollutants from any source regulated under Section 307(b) or (c) of the Act into the POTW for treatment before direct discharge to state waters.

(p) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act. For the purposes of this ordinance, an industrial user is a source of nondomestic wastes from industrial processes.

(q) "Infiltration." Water other than wastewater that enters a sewer system of the ground through such means as defective pipes, pipe joints, connections, or manholes.

(r) "Inflow." Water other than wastewater that enters a sewer system from sources such as roof leaders, to the celler drains, yard drains, area trains, fountain drains, drains from springs and swamp areas, manhole covers, cross connections between storm and sanitary sewers, catch basins, storm water, surface runoff, street wash water, and drainage.

(s) "Interference." A discharge which, alone or in conjunction with the discharge or discharges from other sources, inhibits or disrupts the POTW, it's treatment processes or operations, or its sludge processes, use or disposal, and is therefore a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit, or of the prevention of sewage sludge or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations) Section 405 of the CWA, the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

(t) "Mass discharge rate." The weight of material discharged to the community sewer during a given time interval, normally given in pounds per day.

(u) "Medical wastes." Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, formites, etiological agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(v) "National pretreatment standard." Any regulations containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act which applies to industrial users.

These terms also include prohibited discharges promulgated in 40 CFR 403.5 and local limits adopted as part of the town's pretreatment program.

(w) "New source." Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(b) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

(x) "National Pollutant Discharge Elimination System (NPDES)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Act.

(y) "Normal wastewater." Effluent which contains constituents and characteristics similar to effluent from a domestic premises, and specifically for the purpose of this ordinance, does not contain these constituents in excess of the following concentrations:

BOD_5	-	300 mg/l
COD	-	600 mg/l
TKN	-	60 mg/l
NH ₃ -N	-	30 mg/l
TSS	-	300 mg/l
Oil & grease	-	100 mg/l

(z) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges, is a cause of a violation of any requirement of the POTW's NPDES permit.

(aa) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representatives, agents, or assigns.

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

(cc) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process change or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

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

(ee) "Publicly owned treatment works." A treatment works as defined by Section 212 of the Act, which is owned in this instance by the town. This definition includes any sewers that convey wastewater to such a treatment works and any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial waste, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment.

(ff) "Shall" is mandatory; "may" is permissive.

(gg) "Significant industrial user." (i) All dischargers subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N.

(ii) All non-categorical dischargers that contribute a process wastestream which makes up 5 percent or more of the average dry weather capacity of the wastewater treatment plant (WWTP), or more than an average of 25,000 gallons per day of process wastewater to the WWTP.

(iii) All non-categorical dischargers that, in the opinion of the superintendent, have a reasonable potential to adversely affect the POTW's operations. This shall include but shall not be limited to all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities.

(iv) All non-categorical discharges that contain more than 100 pounds per day of combined BOD_5 and TSS load above that level found in normal wastewater, or that contain more than 1,000 pounds in a month of combined BOD_5 and TSS load above that level found in normal wastewater.

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

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

(jj) "Submission." (i) A request by a POTW for approval of a Pretreatment Program to the EPA or approval authority.

(ii) A request by the POTW to the EPA or approval authority to revise the discharge limits in categorical pretreatment standards to reflect POTW pollutant removals.

(iii) A request to the EPA by an NPDES state for approval of its pretreatment program.

(kk) "Superintendent." The person designated by the town to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.

(ll) "Town." The Town of Carthage, Tennessee.

(mm) "Toxic pollutants." Any pollutant or combination of pollutants listed as toxic in 40 CFR part 401 as promulgated by the administrator of the EPA under the provisions of the Act.

(nn) "User." Any person, firm, corporation, or government entity that discharges, causes, or permits the discharge of wastewater into a community sewer system.

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

(pp) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological, and radiological parameters, including toxicity, volume, and flow rate and such other parameters that serve to classify, define, or measure the contents, quality, quantity, and strength of wastewater.

(qq) "Wastewater discharge permit." Permit issued to an industrial user pursuant to § 18-208 of this ordinance.

(rr) "Waters of the State of Tennessee." Any water, surface or underground, within the boundaries of the state.

(2) The following abbreviations shall have the following meanings:

- (a) BAT Best available technology
- (b) BPT Best practical technology
- (c) BOD_5 Biochemical oxygen demand (5-day)
 - CFR Code of Federal Regulations
- (e) COD Chemical oxygen demand
- (f) CWA Clean Water Act

(d)

(j)

- (g) EPA Environmental Protection Agency
- (h) GMP Good management practices
- (i) MBAS Methylene blue activated substances
 - mg/l milligrams per liter

	(k)	NPDES	-	National Pollutant Discharge
				Elimination System
	(1)	POTW	-	Publicly owned treatment works
	(m)	RCRA	-	Resource Conservation and Recovery Act
	(n)	SIC	-	Standard Industrial Classification
	(o)	SWDA	-	Solid Waste Disposal Act
	(p)	TDEC	-	Tennessee Department of Environment
				and Conservation
	(q)	TSS	-	Total suspended solids
	(r)	USC	-	United States Code
	(s)	WWTP	-	Wastewater treatment plant
ł	#246 ((91-006) Sen	+ 1991	

(Ord. #246 (91-006), Sept. 1991)

18-203. <u>Use of public sewers</u>. (1) <u>Connection with sanitary sewer</u> required. (a) <u>Sewer connection required</u>. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is within 500 feet of the building drain of the parcel shall be considered as being served by the town's sanitary sewer system.

All new buildings hereafter constructed on property which is served by the POTW shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the POTW shall cease to use any other method for the disposal of sewage except as provided for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank. Septic tanks shall not be used where sewers are available. The superintendent shall make any decision as to the availability of sewers. Not withstanding the above exceptions, all premises served by the POTW are subject to sewer use charges as described in § 18-212 of this ordinance.

(b) <u>Unconnected sewer service lines prohibited</u>. Except for discharge to a properly functioning septic tank system or discharges permitted by an NPDES permit issued by the TDEC, the discharge of sewage into places other than the POTW is prohibited.

(c) <u>Insufficient capacity, connection moratorium</u>. In those parts of the sewer system where no additional capacity exists and a sewer moratorium has been established pursuant to orders of the TDEC, no new or additional sewer connections shall be permitted. Permits issued prior to the date of the moratorium may be completed. No new plumbing permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue to be in effect until capacity restriction has been corrected. (2) <u>Adequate and minimum fixtures</u>. (a) <u>Minimum number of fixtures</u>. A dwelling shall have at least one commode, one bathtub or shower, one lavatory, one kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation, and personal hygiene. All other buildings, structures, or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one commode and one hand washing lavatory.

(b) <u>Adequate water for disposal of waste</u>. It shall be unlawful for any person in possession of premises into which a pipe or other connection with the sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow sufficient quantity of water to be so applied as to properly carry off all waste matter and keep the same unobstructed.

(3)Right to enter and inspect connection. The superintendent, building inspector, or their representative shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the sanitary sewer are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause of reasonable suspicion that there may be inadequate facilities, the facilities present may not be properly functioning, there is an improper discharge, or upon a periodic systematic inspection of a particular drainage basin or other large segment of the system through those facilities at any time of the day between the hours of 7:00 A.M. and 6:00 P.M. or at any other time in the event of an emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to disrupt the treatment process, or shall damage the POTW's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.

(4) <u>Demolished buildings</u>. When a building is demolished, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his representative shall notify the superintendent of such a plug and allow same to be inspected prior to covering any work. If such a line is to be reused, it must first undergo inspection by the superintendent and be in conformity with the existing standards.

(5) <u>Temporary discharges</u>. No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through an approved building sewer unless they have been issued a temporary permit by the superintendent. A temporary permit may be issued at the discretion of the superintendent to provide for discharges from portable facilities for festivals or public shows or for other reasonable purposes. The superintendent shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to ensure compliance with provisions of this ordinance. The user shall be required to pay reasonable charges and fees for the permit and service in an amount not less than the charges and fees for normal discharges. Any discharge other than through an approved building sewer or in accordance with a permit

issued by the superintendent shall be unlawful.
(6) <u>Vehicle wash racks</u>. All gasoline stations, garages, self-service vehicle washers, and other public wash racks where vehicles are washed shall install catch basins in conformity with the plumbing code in accordance with a permit obtained from the building official. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system. If such users are industrial users as defined in § 18-208 of this ordinance, a permit as specified therein will be required.

(7) <u>Grease, grit, oil, and lint traps</u>. Restaurants, laundries, wash racks, service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the POTW sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the superintendent and constructed in accordance with applicable building codes.

(8) <u>Multi-use private sewer systems</u>. Excluding those industrial waste facilities with a permit issued pursuant to § 18-208, the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the POTW's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or injury caused to the POTW as a result of any discharge through the private system. (Ord. #246 (91-006), Sept. 1991)

18-204. Building sewers, connections, and permits.

(1) <u>Installation, maintenance, repair of sewer service lines</u>.

(a) <u>Definition</u>. A standard sanitary sewer system line is a minimum 4 inch pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main trunk.

(b) <u>Installation of sewer service lines</u>. Four inch building sewers shall be laid on a grade greater than 1/8" per foot (at least 1%).

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2 feet per second. The slope and alignment of all building sewers shall be neat and regular.

Building sewers shall be constructed only of one of the following materials:

(i) Cast iron soil pipe using rubber compression joints of approved type;

(ii) Polyvinyl chloride pipe with rubber compression joints;

(iii) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(iv) Similar materials of equal or superior quality following superintendent approval. Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a wye, or service line stubbed out, or in the absence of any other provision, by means of a saddle of a type approved by the town, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of 1 percent or more. In case where basement or floor levels are lower than the ground levels at the point of connection to the sewer, adequate precautions through the installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the POTW sewer.

(c) <u>Cleanouts</u>. A cleanout shall be located 5 feet outside of the building, one as it taps on to the utility laterally and one at each change of direction of the building sewer greater than 45 degrees. Additional cleanouts shall be placed not more than 75 feet apart in horizontal building sewers of 4 inch diameter and not more than 100 feet apart for larger pipes. Cleanouts shall extend to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches on a four inch pipe.

(d) <u>Fees</u>. All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The town reserves the right to impose a sewer service line charge for every sanitary sewer service line installed where a lateral sewer

connection has been provided for use by the applicant. The rate of charge will be established by the superintendent.

(e) <u>Title and maintenance</u>. When a property owner ties into a sanitary service line and pays the appropriate sewer service line fees, the town, by appropriate instrument, shall convey and release to the property owner, all its right, title, and interest in the sanitary sewer service line so installed by the town. Thereafter, all repairs and maintenance of the sanitary sewer service line shall be the responsibility of the property owner or user of the sewer; provided, for all sanitary sewer service lines hereafter installed by developers in subdivisions and not by the utility, for which no sewer service line charge is charged to the property owner, all repairs, and maintenance of such sanitary sewer service lines shall be the responsibility of either the property owner, user of the sewer, or the developer, as the owner, user, and developer shall agree by separate contract between themselves.

(f) <u>Location of sewer stub-out</u>. The plumbing contractor is responsible for locating the sewer stub-out. POTW personnel will provide whatever information is available for this purpose. If no "Y" or tee exists within 3 feet of either side of the location shown on the sewer plats, then a tap will be provided by the POTW when the sewer main is exposed. If a manhole needed for locating a service line has been lost, then the POTW shall be responsible for locating the manhole.

(g) <u>Taps on utility sewers</u>. All taps made directly into the town's sewer lines shall be made by sewer maintenance personnel. The plumbing contractor shall excavate to the town's sewer and expose the pipe in preparation for the tap. Only one service line shall be allowed to be installed in a trench. New taps shall be made using a "Y" -type connection.

(h) <u>Manhole requirements</u>. A new manhole will be required whenever a sewer service line larger than 6 inches is needed to tie into the town's sewer. The plumbing contractor shall excavate to the sewer and sufficiently expose the pipe for installation of the manhole. Sewer maintenance personnel shall install the manhole. The cost of the manhole, including labor and materials, shall be charged to the owner after construction is completed.

(i) <u>Maintenance of service lines</u>. All repairs and maintenance of the sewer service line to include correction of excessive inflow or infiltration shall be the responsibility of the property owner or user of the sewer. The town shall be responsible for the maintenance of collector lines only up to the point where the owner's service line connects to the town's lines.

(j) <u>Methods of installation</u>. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction or repair of a building sewer which

have not been described in this section shall conform to the requirements of the building or plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federation manuals. Any deviation from the prescribed procedures must be approved by the superintendent.

(k) <u>Public safety</u>. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from potential hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner acceptable to the town.

(l) <u>Prohibitions</u>. No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains, or other sources of surface run-off or groundwater to a building sewer or drain which in turn is connected either directly or indirectly to the sanitary sewer.

(2) <u>Service line to enter sewer at junction; exceptions</u>. No service lines shall enter the sanitary sewer at any point except where a junction has been made unless special permission has been given by the superintendent. In any case where such permission has been given, the work shall be done under the inspection of the superintendent or his representative and at the risk and expense of the party making the connection.

(3) <u>Application for discharge of domestic wastewater</u>. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the sanitary sewer. Applications shall be required from all new dischargers as well as for existing dischargers desiring additional service. Connection to the sanitary sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-204 of this ordinance and an inspection has been performed by the superintendent or his representative.

Conditions made without an approved application may be served by order of the superintendent. Such unapproved connection may be allowed to remain active if inspected and accepted; however, the owner shall be required to pay an alternative fee in lieu of the permit application fee in an amount double the current fee.

The receipt by the town of a prospective customer's application for service shall in no way obligate the town to render the service. If the service applied for cannot be supplied in accordance with this ordinance and the town's rules and regulations, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service, except that conditional waivers may be granted for additional services by the superintendent for interim periods if compliance may be assured within a reasonable period of time. (4) <u>Acceptance of work</u>. All sewer construction involving interceptor lines, pump stations, metering stations, and appurtenances which shall become part of the town's sewer system shall not be constructed until the plans are approved and the construction inspected and approved by the superintendent. Any construction work where sewers are opened, uncovered, or undercut must also have the prior approval of the superintendent. (Ord. #246 (91-006), Sept. 1991)

18-205. <u>Private domestic wastewater disposal</u>. (1) <u>Availability</u>. Where a public sanitary sewer is not available under the provisions of § 18-203(1) of this ordinance, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of this section.

Where a public sewer shall become available, the building sewer shall be connected to said sewer within sixty days after official notification by the superintendent or his representative to do so.

(2) <u>Requirements</u>. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing sub-surface oil absorption facilities where the area of the lot is less than that specified by the Town of Carthage and the Smith County Health Department.

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

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the town and Smith County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the town and Smith County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the town and Smith County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all the recommendations of the TDEC, the Smith County Health Department, and the Town of Carthage. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(f) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the town and/or the Smith County Health Department. (Ord. #246 (91-006), Sept. 1991)

18-206. <u>Prohibitions and limitations</u>. (1) <u>Purpose and policy</u>. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be legally discharged to the POTW. Pretreatment of some wastewater discharges will be required to achieve the goals established by this section and the Clean Water Act. The specific limitations set forth in this section are subject to change as necessary to enable the town to provide efficient wastewater treatment, to protect the public health and environment, and to enable the town to meet requirements contained in its NPDES permit. The superintendent shall review said limitations from time to time to ensure that they are sufficient to protect the health and safety of POTW personnel and the operation of the treatment works to enable the facility to comply with its NPDES permit, provide for a cost effective means of operating the treatment works, and protect the public health and environment. The superintendent shall recommend changes or modifications as necessary.

(2) <u>Prohibited pollutants</u>. No person shall introduce into the POTW any pollutant(s) which cause pass-through or interference. Additionally, the following specific prohibitions apply:

(a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, pollutants with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade), as determined by a Pensky-Martens closed-cup tester, using the test method specified in the American Society for Testing and Materials (ASTM) D-93-79 or D-93-80k, or a Setaflash closed-cup tester, using the test method specified in ASTM D-3278-78, or pollutants which cause an exceedance of 10 percent of the lower explosive limit (LEL) at any point within the POTW.

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 6.0 or greater than 10.0.

(c) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which may cause damage to the POTW, including waxy or other materials which tend to clog and/or coat a sewer line or other related appurtenances.

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength (slug) so

as to cause interference in the POTW or individual unit operations or cause adverse effects on its workers or the environment.

(e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 104 degrees Fahrenheit (40 degrees Centigrade).

Unless a higher discharge temperature is specified in the user's wastewater discharge permit, no user shall discharge into a sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 150 degrees Fahrenheit (65.5 degrees Centigrade).

(f) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(g) Any trucked or hauled pollutants, except at discharge points specified by the POTW.

(h) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause interference or pass-through.

(i) Any pollutant which causes a discoloration of the WWTP effluent resulting in a degradation of receiving water quality and/or an NPDES permit violation.

(3) <u>Affirmative defenses</u>. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in § 18-206(2) of this ordinance where the user can demonstrate one of the following:

(a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference.

(b) A local limit designed to prevent pass-through and/or interference, as the case may be, was developed pursuant to § 18-206(10) and (11) of this ordinance for each pollutant in the user's discharge that caused pass-through or interference and the user was in compliance with each such local limit directly prior to and during the pass-through or interference.

(c) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass-through or interference and the user's discharge directly prior to and during the pass-through or interference did not change substantially in nature of constituents from the user's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(4) <u>Wastewater constituent evaluation</u>. The wastewater of every industrial user shall be evaluated using the following criteria:

(a) Wastewater containing any element or compound which is known to be an environmental hazard and which is not adequately removed by the treatment works.

(b) Wastewater causing a pass-through discoloration, foam, floating oil and grease, or any other condition in the quality of the treatment works effluent such that receiving water quality requirements established by law cannot be met.

(c) Wastewater causing conditions at or near the town's treatment works which violate any statue, rule, or regulation of any public agency of Tennessee or the United States.

(d) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance.

(e) Wastewater causing interference with the effluent or any other product of the treatment process, residues, sludges, or scums causing them to be unsuitable for reclamation, reuse, causing interference with the reclamation process, or causing them to be unsuitable for disposal.

(f) Wastewater discharged at a point in the collection system that is upstream of any overflow, bypass, or combined sewer overflow and which may thereby cause special environmental problems or specific discharge limitations.

(g) Wastewater having constituents and concentrations in excess of those listed in § 18-206(10) or cause an exceedance of the limits in § 18-206(11).

(h) The capacity of existing sewer lines to carry the anticipated wastewater flow, particularly with respect to any problems, overflows, or overloads caused by heavy rain infiltration.

(i) The toxicity of each wastewater shall be evaluated by an appropriate biomonitoring technique to determine if a specific discharge may significantly affect the overall toxic level of the POTW influent.

The superintendent shall establish reasonable limitations, prohibitions, or monitoring requirements in addition to the limits established pursuant to § 18-206(5) and (10) of this ordinance in the wastewater discharge permit of any industrial user that discharges wastewater violating any of the above criteria or that has processes that generate wastewater that could violate any of the above criteria prior to pretreatment as shall be reasonably necessary to achieve the purpose and policy of this section.

(5) <u>National pretreatment standards</u>. Certain industrial users are now or hereafter shall become subject to National Pretreatment Standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to such a standard shall comply with all requirements and with any additional or more stringent limitations contained in this ordinance. Compliance with current or newly promulgated National Pretreatment Standards for existing sources shall be within 3 years following promulgation of the standards unless a shorter compliance time is specified. Compliance for new sources shall be required upon promulgation of the standard. New sources shall have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before commencing discharge. New sources must meet applicable pretreatment standard within 90 days of commencement of discharge.

(6) <u>Dilution</u>. Except where expressly authorized by an applicable National Pretreatment Standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(7) <u>Limitations on radioactive waste</u>. No person shall discharge or permit to be discharged any radioactive waste in a community sewer, except as follows:

(a) When the person is authorized to use radioactive materials by the TDEC or the Nuclear Regulatory Commission (NRC).

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the agencies having jurisdiction.

(c) When a copy of permits received from said regulatory agencies has been filed with the superintendent.

(8) <u>Septic tank hauling, pumping, and discharge</u>. No person owning vacuum or cesspool pump trucks or other liquid waste transport trucks shall discharge sewage directly or indirectly into the POTW, unless that person first receives from the superintendent a septic tank discharge permit for each vehicle used in this manner. All applicants for a septic tank discharge permit shall complete the forms required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the superintendent.

(a) The owners of such vehicles shall affix and display the permit number in 4 inch block figures on the side of each vehicle used for such purposes.

(b) The permit shall be valid for a period of 1 year from date of issuance, provided that the permit shall be subject to suspension or revocation by the superintendent for violation of any of the provisions of the ordinance or other applicable laws or regulations. A revocation or suspension of the permit shall be for a period not to exceed 5 years. Such revocation for suspension shall bind the permittee, any member of the immediate family of the permittee, or any person who has purchased the business or a substantial amount of the assets of the permittee. Users found operating in violation of a permit issued under this section and whose permit is therefore revoked by the superintendent, shall be notified

of the violation by certified mail or by notice personally delivered to the user.

(c) Septic tank discharge permits are not automatically renewed. Application for renewal must be made to the superintendent.

(d) Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. All other hauled wastes shall be governed by § 18-206(9). Any user transporting, collecting, or discharging non-domestic industrial process wastewaters or a mixture of such wastewaters with domestic wastewaters shall obtain a holding tank discharge permit in accordance with § 18-206(9).

(e) The superintendent shall designate the locations and times where such trucks may be discharged and may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste.)

(f) The superintendent shall have authority to investigate the source of any hauled waste and to require testing the waste at the expense of the discharger prior to discharge.

Other holding tank wastes. No user shall discharge any other (9)holding tank wastes, including hauled industrial waste, into the POTW unless he has been issued a holding tank discharge permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. All applicants for a holding tank discharge permit shall complete forms required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the superintendent. All such dischargers and transporters must show that they have complied with federal manifests and other regulations of the RCRA. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of discharge, the source and character of the waste, and shall limit the wastewater constituents of the discharge. The user shall pay any applicable charges or fees and shall comply with the condition of the permit.

(10) <u>Restrictions on wastewater strength</u>. No person or user shall discharge wastewater which exceeds the following set of standards (Table A -User Discharge Restrictions) unless an exception is permitted as provided for in this ordinance or the user's wastewater discharge permit provides a special permit condition temporarily allowing a higher concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a predetermined time frame (compliance schedule).

Parameter	Daily Average Concentration (mg/l)	Maximum Instantaneous Concentration (mg/l)	
Antimony	0.5	0.75	
Arsenic	0.05	0.1	
Cadmium	0.009	0.014	
Chromium (total)	0.20	0.30	
Copper	0.320	0.48	
Cyanide		0.354	
Lead	0.105	0.158	
Mercury	0.001	0.0015	
Nickel	0.30	0.45	
Pesticides & Herbicides	0.5	0.75	
Phenol (total)		0.143	
Selenium	0.5	0.75	
Silver	0.006	0.009	
Surfactant as MBAS	25	38	

Table A - User Discharge Restrictions

*Denotes 24-hour composite sample @Denotes grab sample

1.20

0.80

Zinc

(11) <u>Criteria to protect the treatment plant influent</u>. The POTW shall monitor the treatment plant influent for each pollutant in the following table. Industrial users shall be subject to reporting and monitoring requirements as set forth in this ordinance. In the event that the influent at the POTW reaches or exceeds the levels set forth in this table, the superintendent shall initiate technical studies to determine the cause of the exceedance and shall recommend to the town the necessary remedial measures. The superintendent may also recommend changes to these criteria in the event that the POTW effluent standards are changed, there are changes in applicable laws or regulations, or changes are needed for more effective operation of the POTW.

Parameter	Protection Criteria (mg/l)
Cadmium	0.020
Chromium	0.375
Copper	0.5
Lead	0.10
Mercury	0.004
Nickel	0.10
Silver	0.029
Zinc	1.037
Cyanide	0.605
Toluene	0.136
Benzene	0.004
1,1,1 Trichloroethane	0.333
Ethylbenzene	0.024
Carbon tetrachloride	0.075
Chloroform	0.10
Tetrachloroethylene	0.278
Trichloroethylene	0.333
1,2 trans-dichloroethylene	0.013
Methylene chloride	1.25
Phenol (total)	0.143
Napthalene	0.002
Total phthalates*	0.320

Table B - Plant Protection Criteria

*The sum of bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

(12) Storm drainage, ground, unpolluted and contaminated storm water. (a) No storm water, ground water, rain water, street drainage, rooftop drainage, basement drainage, subsurface drainage, foundation drainage, yard drainage, swimming pool drainage, process water drainage, cooling water, or other unpolluted or minimally polluted water shall be discharged into the town's sewer unless no other reasonable alternative is available, except with permission from the superintendent. Reasonable conditions shall be prescribed, and a sewer service charge will be issued based upon the quantity of water discharged as measured by a flow meter or a reasonable estimate accepted by the superintendent. All users shall be required to maintain their private sewer lines so as to prevent infiltration of ground or storm water as a condition of use of the system and shall immediately replace or repair any leaking or damaged lines.

(b) The POTW will accept discharge of contaminated storm water if the following criteria are met:

(i) All known and available technology will not prevent contamination or treat contaminated water to meet state standards for discharge to receiving waters or will cause unreasonable financial burden;

(ii) The contaminated storm water meets the POTW's discharge limits and all state and federal pretreatment requirements; and

(iii) The volume of discharge will not exceed the hydraulic loading in the collection system or the treatment plant.

(13) <u>Use of garbage disposals</u>. No waste from garbage disposals shall be discharged into the POTW's sewers except from private garbage disposals used in an individual residence or upon permit issued by the superintendent for preparation of food consumed on premises, and then only when applicable fees are paid. It shall be unlawful for any person to use a garbage disposal grinder connected to the sewer system for the purpose of grinding and discharging plastic, paper products, inert materials, or anything other than the waste products from normal food preparation and consumption.

(14) <u>Hospital or medical waste</u>. It shall be unlawful for any person to dispose of medical waste, surgical operating room waste, or delivery room waste into the sewer.

(15) <u>Obstruction or damage to sewer</u>. It shall be unlawful for any person to deposit or cause to be deposited any waste which may obstruct or damage storm or sanitary sewer lines or which may inhibit, disrupt, or damage either system, including the sewage treatment process and operations. This prohibition includes all substances, whether liquid, solid, gaseous, or radioactive and whether associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing. It shall be unlawful to block or obstruct any catch basin, sewer line, or other appurtenance; or to break,

injure, or remove any portion from any part of a sewer, drain, or catch basin, including plates covering manholes. (Ord. #246 (91-006), Sept. 1991)

18-207. <u>Control of prohibited pollutants</u>. (1) <u>Pretreatment</u> <u>requirements</u>. Industrial users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities when necessary to reduce or modify the user's wastewater composition to achieve compliance with the limitations in wastewater strength set forth in § 18-206(10) and (11) of this ordinance, to meet applicable National Pretreatment Standards, to prevent slug discharges or to meet any other wastewater condition or limitation contained in the industrial user's wastewater discharge permit.

(2) <u>Plans and specifications</u>. Plans and specifications for wastewater monitoring and pretreatment facilities shall be prepared, signed, dated, and sealed by a registered engineer, and be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review the plans within 30 days of receipt and recommend to the user any appropriate changes. Prior to beginning construction of a monitoring or pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the superintendent. Prior to beginning construction, the industrial user shall also secure all necessary permits.

The user shall construct the pretreatment facility within the time frame specified in the compliance schedule of the wastewater discharge permit. Following completion of construction, the user shall provide the superintendent with as-built drawings to be maintained by the superintendent. The review of such plans and specifications will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce effluent complying with the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or methods of operations shall be reported to and approved by the superintendent prior to implementation.

(3) <u>Prevention of accidental discharges</u>. All users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this ordinance from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from diked areas or holding ponds of any waste regulated by this ordinance. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of regulated waste shall be subject on a case by case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for accidental discharge. Plans, specifications, and operating procedures shall be developed by the user and submitted to the superintendent for review.

(4) <u>Oil and grease control program</u>. Disposal of oil by discharge to the sewer system is not permitted. Oils include automotive lubricating oils,

transmission and brake fluid, other industrial oils, and vegetable oils used in a restaurant or food processing facility.

Dischargers of oil and grease waste shall be required to provide an equivalent of primary treatment based on gravity separation of visible and floating oil and grease sludge from wastewater discharges. Such treatment processes shall be subject to good management practices and approval by the superintendent. Discharges shall also be subject to monitoring, entry, inspection, reporting, and other requirements as determined by the superintendent. These dischargers may be required to apply for industrial waste discharge permits if it is determined that the dischargers are a source of prohibited pollutants, toxic pollutants, or are otherwise controlled by federal or state regulations. All disclaimers of oil and grease as listed above are subject to all enforcement and penalty provisions of this ordinance.

(5) <u>Slug control program</u>. (a) Each user shall provide protection from slug discharges or restricted materials or other substances regulated by this article. A slug is defined as any pollutants, including oxygen demanding pollutants, released in a discharge of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects upon its employees or the environment. No user shall be permitted to discharge into the system until the need for slug control plans or procedures has been reviewed by the superintendent.

(b) Certain users will be required to prepare Spill Response Plans showing facilities and procedures for providing this protection. These plans shall be submitted to the superintendent for review and approval. All users required to have such a plan shall submit it within 30 days of notification by the superintendent and complete implementation within 90 days of notification.

(c) In the case of a slug discharge, it is the responsibility of the user to immediately notify the POTW of the incident by telephone or in person. Information concerning the location of the discharge, type of waste, concentration and volume, and corrective action shall be provided by the user.

Within 5 days following a slug discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures being taken by the user to prevent future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property, nor shall notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.

(d) A notice shall be permanently posted on the user's premises advising employees of a contract to call in the event of a slug discharge. The user shall ensure that all employees who may cause or allow such slug discharge to occur are advised of the proper emergency notification procedure.

(6) <u>Prohibition of bypass</u>. (a) Except as allowed in paragraph (c) below, bypass is prohibited, and the superintendent may take enforcement action against an industrial user for a bypass, unless:

(i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed.

(iii) The user submitted notices as required in § 18-209(13)

(b) The superintendent may approve an anticipated bypass after considering its adverse effect if the superintendent determines that it will meet the 3 conditions listed in paragraph (a) of this subsection.

(c) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the reporting provisions of § 18-209(13).

(7) <u>Exceptions to wastewater limitations</u>. (a) <u>Applicability</u>. This section provides a method for industrial users subject to the limitation on wastewater pollutants listed in § 18-206(10) and (11) to apply for and receive a temporary exemption to the discharge level for one or more pollutants or parameters.

(b) <u>Time of application</u>. Applicants shall apply for a temporary exemption when they are required to apply for a wastewater discharge permit or renewal provided that the superintendent allows applications at any time unless the applicant has submitted the same or substantially similar application within the preceding year that was denied by the board.

(c) <u>Written applications</u>. All applications for an exception shall be in writing and shall contain sufficient information for evaluation of each of the factors to be considered by the superintendent pursuant to paragraph (d) of this subsection.

(d) <u>Review by the superintendent</u>. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have 30 days following notification by the superintendent to correct such deficiencies. This 30 day period may be extended by the superintendent upon application and for just cause. Upon receipt of a complete application, the superintendent

shall evaluate it within 30 days and approve or deny the application based upon the following factors:

(i) The superintendent shall consider if the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in § 18-206(10) and (11) and grant an exception only if such exception is within limitations of applicable federal regulations.

(ii) The superintendent shall consider if the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the EPA under the provisions of Section 307(a) of the Act, or similar state regulation, and then grant an exception only if such exception may be granted within the limitations of federal and state regulations.

(iii) The superintendent shall consider if the exception would create conditions or a hazard to city personnel that would reduce the effectiveness of the POTW taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works.

(iv) The superintendent shall consider the possibility of the exception causing the POTW to violate its NPDES permit.

(v) The superintendent shall consider if the exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by the POTW or which would cause the POTW to violate any regulation promulgated by EPA under the provisions of Section 405 of the Act or similar state regulatory measure.

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

(vii) The superintendent may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge.

(viii) The superintendent may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

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

(x) The superintendent may consider an application for exception based upon the fact that water conservation measures instituted or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user

without increasing the amount of mass pollutants discharged. To be eligible for an exception under this subparagraph, the applicant must show that except for wastewater conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth in § 18-206(10). No such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have significant adverse impact upon the operation of the POTW.

(e) <u>Review by board</u>. The board shall review any appeal to a denial by the superintendent of an application for an exception and shall take into account the same factors considered by the superintendent. At such a hearing, the applicant and the superintendent shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in § 18-210(1) shall be applicable to such a hearing. The applicant shall bear the burden of proof in an appeal hearing.

(f) <u>Good management practices</u>. The superintendent or board shall not grant an exception unless the applicant demonstrates to the board that good management practices (GMP) are being employed to reduce or prevent the contribution of pollutants to the POTW. GMP's include, but are not limited to, preventive operating and maintenance procedures, schedule of activities, process changes, prohibiting activities, and other management practices to reduce the quantity or increase the quality of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage. (Ord. #246 (91-006), Sept. 1991)

18-208. <u>Wastewater discharge permits</u>. (1) <u>Applicability</u>. The provisions of this ordinance are applicable to all industrial users of the POTW. The town has an "approved POTW pretreatment program" as that term is defined in 40 CFR, Part 403.3(d) and any permits issued hereunder to industrial users who are subject to or who become subject to a National Categorical Pretreatment Standard shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the EPA or the State of Tennessee regarding such categorical standards unless an exception for the town's program or for the specific industrial categories is authorized.

(2) <u>Application and permit requirements</u>. Prior to discharging non-domestic waste into the POTW, all significant industrial users of the POTW shall obtain a wastewater discharge permit. The industrial user shall request that the superintendent determine if the proposed discharge is significant as defined in § 18-202. If the discharge is determined not to be significant, the superintendent may still establish appropriate discharge conditions for the user. Any non-categorical industrial user designated as significant may petition the superintendent to be deleted from the list as significant on the grounds that there exists no potential for adverse effect on the POTW's operation or violation of any pretreatment standard or requirement.

All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the superintendent, pay appropriate fees, and agree to abide by the provisions of this ordinance and any specific conditions or regulation established by the superintendent. All original applications shall be accompanied by a report containing the information specified in § 18-208(3). All original applications shall also include a site plan, floor plan, and mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size, location, and elevation. The industrial user shall also submit revised plans to the superintendent when alterations or additions to the user's premises affect said plans.

All application information submitted to the superintendent shall be accompanied by a certification statement found in § 18-209(10) of this ordinance.

(3) <u>Report requirements</u>. The report required for all significant industrial users by § 18-208(2) or other provisions of this ordinance shall contain in units and terms appropriate for evaluation the information listed in subparagraphs (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the superintendent a report which contains the information listed in subparagraphs (a) through (f) below within 180 days after the promulgation by the EPA of a National Pretreatment Standard under Section 307(b) or (c) of the Act. This report is called the Baseline Monitoring Report (BMR). Industrial users who are unable to achieve a discharge limit set forth in § 18-206 without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in subparagraphs (a) through (g) of this section.

As specified, the report shall contain the following:

(a) The name and address of the industrial user.

(b) The location of the industrial user.

(c) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user.

(d) The average and maximum flow in gallons per day of discharge from the industrial user to the POTW.

(e) The nature and concentration of pollutants in the discharge from each regulated process from the industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard and as approved by standard methods approved by the superintendent. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval.

(f) A statement that has been reviewed by an authorized representative of the industrial user and certified by an environmental professional indicating if pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the industrial user to achieve compliance.

If additional pretreatment or operation and maintenance (g)procedures will be required to meet the pretreatment standards, the report shall contain the shortest schedule by which the industrial user will provide the additional pretreatment. The completion date in the schedule shall be no later than the compliance date established for the applicable pretreatment standard.

For purposes of this paragraph when the context so indicates, the phrase "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the industrial user's discharging any incompatible pollutant regulated by § 18-206. For purposes of this paragraph, the term "pollutant" shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in § 18-206.

Incomplete applications. The superintendent will act only on (4)applications that are accompanied by a report which lists all the information required in § 18-208(3). Industrial users who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of the deficiency and will be given 30 days to correct such. If the deficiency is not corrected within that period or with such extended time as allowed by the superintendent, the superintendent shall deny the application and notify the applicant in writing of such action.

Evaluation of application. Upon receipt of completed applications, the superintendent and/or pretreatment coordinator shall review and evaluate the applications and shall propose such special permit conditions as the superintendent deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this ordinance and all other applicable The superintendent may also propose that the laws and regulations. wastewater discharge permit be subject to one or more special conditions in regard to any of the following:

> Pretreatment requirements. (a)

The average and maximum wastewater constituents. (b)

Limits on rate and time of discharge for flow equalization. (c)

(d) Requirements for installation of inspection and sampling

facilities.

(e) Specifications for self-monitoring procedures.

Requirements for submission of technical and/or discharge (f)

reports.

Requirements for records maintenance. (g)

(h) Average and maximum mass emission rates, or other appropriate limits when toxic pollutants are proposed or present in the industrial user's wastewater discharge.

(i) Other conditions deemed appropriate by the superintendent to ensure compliance with the ordinance or other applicable law or regulation.

(j) A reasonable compliance schedule, as determined by the superintendent, up to one year in duration or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods of operation and maintenance.

(k) Requirements for the installation of facilities to prevent and control accidental discharges or spills at the user's premises.

(l) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.

(6) <u>Notification of proposed permit conditions</u>. (a) Upon completion of the evaluation, the superintendent shall notify the applicant of any special permit conditions proposed for inclusion in the wastewater discharge permit.

(b) The applicant shall have 45 days from and after the date of the superintendent's recommendations for special permit conditions to review same and file written objections with the superintendent in regard to any special permit conditions recommended. The superintendent may, but is not required, to schedule a meeting with applicant's authorized representative within 15 days following receipt of the applicant's objections, to attempt to resolve disputed issues concerning special permit conditions.

(c) If applicant files no objection to special permit conditions proposed by the superintendent or a subsequent agreement is reached concerning same, the superintendent shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein.

(7) <u>Board to establish permit conditions</u>. (a) In the event that the superintendent cannot issue a permit pursuant to § 18-208(6) above, the superintendent shall submit to the board the proposed permit conditions and the applicant's written objections at the next regularly scheduled meeting of the board or at a specially convened meeting.

(b) The board shall schedule a hearing within 30 days following the meeting referred to above unless such time is extended for just cause shown to resolve any disputed matters relevant to such permit.

(c) The superintendent shall notify the applicant of the date, time, place, and purpose of the hearing scheduled by the board. The applicant and the superintendent shall have the right to participate in the hearing and present any relevant evidence to the board concerning proposed special permit conditions or other matters being considered by the board.

(d) Following the hearing or additional hearings deemed necessary and advisable by the board, the board shall establish special permit conditions deemed advisable to ensure the applicant's compliance with this ordinance or other applicable laws or regulations and direct the superintendent to issue a wastewater discharge permit to the applicant accordingly.

(8) <u>Compliance schedule and reporting requirements</u>. (a) The following conditions shall apply to the schedules required by § 18-208(5) of this ordinance:

(i) <u>Schedule components</u>. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment requirements for the industrial user to meet the applicable pretreatment standards.

(ii) <u>Schedule intervals</u>. No such increment shall exceed 9 months.

(b) The town shall require from the permittee when necessary:

(i) The development of a compliance schedule to install the appropriate technology to meet applicable pretreatment standards.

(ii) The submission of all notices and self-monitoring reports as are necessary to assess compliance with pretreatment standards including, but not limited to, those in CFR 403.12.

(9) <u>Duration of permits</u>. Wastewater discharge permits shall be issued for a period of not to exceed 3 years. Permits issued to industrial users pursuant to § 18-207(8) shall be issued for a period of 1 year.

Industrial users subject to a national pretreatment standard shall apply for new permits on the effective date of such standards. The superintendent shall notify in writing any industrial user whom the superintendent has cause to believe is subject to a national pretreatment standard of the promulgation of such regulations, but any failure of the superintendent in this regard shall not relieve the user of the duty of complying with such standards. An industrial user must apply in writing for a renewal permit within a period of time not more than 90 days and not less than 30 days prior to expiration of the current permit.

Limitations or conditions of a permit are subject to modification or changes as such changes become necessary due to changes in applicable water quality standards, changes in the town's NPDES permit, changes in § 18-206(10) and (11), changes in other applicable law or regulation, or for other just cause. Users will be notified of any proposed changes in their permit by the superintendent at least 30 days prior to the effective date of the change. Any change or new condition in the permit shall include a provision for a reasonable time schedule for compliance. The user may appeal the decision of the superintendent in regard to any changed permit conditions as otherwise provided for in this ordinance.

(10) <u>Transfer of permit</u>. Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation, unless as approved by the superintendent.

(11) <u>Revocation of a permit</u>. Any permit issued under the provisions of this ordinance is subject to modification, suspension, or revocation in whole or in part during its term for cause, including but not limited to, the following:

(a) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation.

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

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

(d) Refusal of reasonable access to the user's premise for the purpose of inspection and monitoring.

(12) <u>Permit contents</u>. At a minimum, wastewater discharge permits shall contain the following:

(a) A listing of effluent limitations based on applicable general pretreatment standards, categorical standards, local limits, and/or state law.

(b) Self-monitoring, sampling, reporting, notification, and record keeping requirements; including identification of pollutants, sampling location, sampling frequency, and sample type.

(c) Statement of civil and criminal penalties and any applicable compliance schedule(s).

(d) Permit duration. (Ord. #246 (91-006), Sept. 1991)

18-209. <u>Inspections, monitoring, and entry</u>. (1) (a) When required to carry out the objective of this ordinance, including but not limited to:

(i) Developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this ordinance;

(ii) Determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition;

(iii) Any requirement established under this section.

- (b) The superintendent shall require any industrial user to:
 - (i) Establish and maintain records;
 - (ii) Make reports;

(iii) Install, use, and maintain monitoring equipment or methods, including biological monitoring methods when appropriate;

(iv) Sample effluent in accordance with these methods, at such locations and intervals and in such a manner as the superintendent shall prescribe;

(v) Provide such other information as the superintendent may reasonably require.

(c) Specific requirements under the provisions of subparagraph (b) of this section shall be established by the superintendent, or the board as applicable, for each industrial user, and such requirements shall be included as a condition of the industrial user's wastewater discharge permit. The nature of any requirement under this provision shall depend on the nature of the user's discharge, the impact of the discharge upon the POTW, the volume of water discharged, and the technical feasibility of an economic reasonableness of any such requirement.

(d) The superintendent or his authorized representative, employees of the State of Tennessee, and employees of the EPA shall, upon presentation of credentials:

(i) Have a right of entry to, upon, or through any user's premises in which an effluent source is located or in which any records required to be maintained under this ordinance are located.

(ii) Have access at reasonable times to and copy any records, inspect any monitoring equipment or method required of the user, and sample any discharge which the owner or operator of such source is required to sample.

(e) In the event any user denies authorized personnel the right of entry for inspection, sampling, inspecting and copying records, or verifying that a user is not discharging industrial wastes or performing other duties as shall be imposed upon the superintendent by this ordinance, the superintendent shall seek a warrant or use such other legal procedures as advisable and reasonably necessary to perform the duties of this ordinance.

(f) Any user failing or refusing to perform any duty imposed upon the user under the provisions of this section, or who denies the right to enter the user's premises for purposes of inspection, sampling, inspecting and copying records, or other such duties as may be imposed upon the user by this section, shall be deemed to have violated the conditions of the wastewater discharge permit and such permit shall be subject to modification, suspension, or revocation under the procedures established in this ordinance. A user who does not have an industrial waste discharge permit and denies the right to inspect as described herein is subject to having the sewer service in question terminated by the superintendent.

(2) <u>Reports</u>. (a) <u>Progress reports</u>. No later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the superintendent, including as a minimum, whether it complied with the increment of progress to be met on such a date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the superintendent.

(b) <u>90 Day compliance report</u>. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-208(3), subparagraphs (d) through (f).

(c) <u>Self-monitoring reports</u>. (i) All significant industrial users shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or in the industrial user's permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by their permit. In addition, this report shall include a record of average and maximum daily flows. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are submitted.

(ii) The superintendent, as applicable, may impose limitations on industrial users employing dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by paragraph (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(d) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and nature and concentration or production rates and mass limits where requested by the superintendent, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards or industrial permit. For industrial users subject to equivalent mass or concentration limits established by the superintendent as alternative standards, the report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measured operation), the report shall include the user's actual average production rate for the reporting period. The frequency of monitoring shall be prescribed in the applicable treatment standard.

(3) <u>Monitoring facilities</u>. (a) All significant industrial users shall install a monitoring station of a standard design or one satisfactory to the superintendent by June 30, 1992.

All users who propose to discharge or who in the judgement of the POTW could now or in the future discharge wastewater with constituents and characteristics different from that produced by a domestic premise may be required to install a monitoring facility.

(b) <u>Installation</u>. Required monitoring facilities shall be constructed, operated, and maintained at the user's expense. The purpose of the facility is to allow inspection, sampling, and flow measurement of wastewater. If sampling or metering equipment is also required by the POTW, it shall be provided, installed, and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside the building. The POTW may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

(c) <u>Access</u>. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for POTW, State of Tennessee, or EPA personnel. There shall be ample room in or near such a facility to allow accurate sampling and compositing of samples for analysis. The entire facility and any sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.

(d) The industrial user shall be required to design any necessary facility and to submit according to the permit compliance schedule an engineering report, including detailed design plans and operating procedures to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review the plans and other documents within 30 days and shall recommend any change deemed appropriate.

(e) Upon approval of plans and other documents, the industrial user shall secure all building, electrical, plumbing, and other permits required and proceed to construct any necessary facility and establish required operating procedures within the time provided in the industrial user's wastewater discharge permit.

(4) <u>Sampling and analysis</u>. (a) All collected samples must be of such nature that they provide a true and accurate representation of the industry's normal workday effluent quality.

(b) Chain-of-custody procedures, sample preservation techniques, and sample holding times recommended by the EPA shall be followed in all self-monitoring activities. Grab samples must be used for pH, cyanide, phenols, oil and grease, sulfide, and volatile organics. All other samples shall be 24-hour flow proportional composite samples.

(c) Monitoring shall be performed at the approved monitoring station on the effluent sewer. Location and design of the monitoring station shall be subject to the review and approval of the superintendent. Any change in monitoring location will be subject to the approval of the superintendent.

(d) All analyses shall be performed in accordance with procedures established by the EPA under the provisions of Section 304(h) of the Act and contained in 40 CFR Part 136 and its amendments or with any other test procedures approved by the EPA or the superintendent. Sampling shall be performed in accordance with the techniques approved by EPA or the superintendent.

(5) <u>Dangerous discharge notification</u>. (a) <u>Telephone notification</u>. Any person or user causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to human health and welfare or the environment, or which is likely to cause interference with the POTW, shall notify the superintendent immediately by telephone. In the absence of the superintendent, notification shall be given to the POTW employee then in charge of the treatment works. Such notification will not relieve the user from any expense, loss, liability, fines, or penalty which may be incurred as a consequence of the discharge.

(b) <u>Written report</u>. Within 5 days following such an occurrence, the user shall provide the superintendent with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.

(c) <u>Notice to employees</u>. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of a contact in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (6) <u>Slug reporting</u>. The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by § 18-207(5), by the industrial user.

Notification of hazardous waste discharge. (a) On or before (7)January 20, 1991, the user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of any discharge into the POTW of a substance which is listed or characteristic waste under Section 3001 of RCRA. Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes and estimating the volume of hazardous wastes expected to be discharged during the following 12 months. The notification must take place within 180 days after the July 24, 1990 promulgation date of the Domestic Sewage Study amendments to the Pretreatment Regulations. This requirement shall not apply to pollutants already reported under the self-monitoring requirements of § 18-209(2).

(b) Dischargers are exempt from the requirements of this paragraph during a calendar month in which they generate no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(2), (f), (g), and (j). Generation of more than 15 kilograms of hazardous waste do not require additional notification, except for the acute hazardous wastes specified in 40 CFR 261.5(3), (f), (g), and (j).

(c) In the case of new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW of the discharge of such substance within 90 days of the effective date of such regulations, except for the exemption in subparagraph (b) of this section.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

(8) <u>Notification of changed discharge</u>. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes, for which the user has submitted initial notification under § 18-209(7).

(9) <u>Provisions governing fraud and false statements</u>. The reports required to be submitted under this section shall be subject to the provisions of

18 U.S.C. 1001 relating to fraud and false statements and the provisions of Sections 309(c)(4) and (6) of the Act, as amended, governing false statements, representation, or certifications in reports required by the Act.

(10) <u>Signatory requirements</u>. The reports required by this section shall include a certification statement as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. The reports shall be signed as follows:

(a) By a responsible corporate officer if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a responsible corporate officer is:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the industrial user submitting reports required by this section is a partnership or sole proprietorship, respectively.

(c) By a duly authorized representation of the individual designated in paragraph (a) of this section if:

(i) The authorization is made in writing by the responsible corporate officer.

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a person in position of equivalent responsibility or with overall responsibility for environmental matters for the company.

(iii) The written authorization is submitted to the control authority.

(d) If an authorization under subparagraph (c) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subparagraph (c) of this section must be submitted to the superintendent prior to or in conjunction with any reports to be signed by an authorized representative.

(11) <u>Reporting of violation</u>. If sampling performed by an individual user indicates a violation, the user shall notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the result of the repeat analysis to the superintendent within 30 days after becoming aware of the violation. The industrial user is not required to resample if one of the following criteria is met:

(a) The POTW performs sampling at the industrial user at a frequency of at least once per month.

(b) The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(12) <u>Reporting of all monitoring</u>. If an individual user subject to the reporting requirements in § 18-208(3) of this ordinance monitors any pollutant more frequently than required by the superintendent using approved procedures prescribed in this ordinance, the results of this monitoring shall be included in the report.

(13) <u>Notice of bypass</u>. (a) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent.

(b) An industrial user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

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

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

(b) The dates analyses were performed.

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

(15) <u>Retention period</u>. Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make these records available for inspection and copying by the superintendent, TDEC Director of the Division of Water Pollution Control, and EPA. The retention period shall be extended during the course of any unresolved litigation regarding the user or upon request from the superintendent, the director, or the EPA.

(16) <u>Confidential information</u>. Any records, reports, or information obtained under this section shall:

(i) In the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition, and

(ii) Be available to the public to the extent provided by 40 CFR, part 2.302. If, upon showing to the superintendent by any person that, if made public, records, reports, information, or particular parts (other than effluent data) to which the superintendent has access under this section, would divulge methods or processes entitled to protection as trade secrets of such person, the superintendent shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this article. Such record, report, or information may be disclosed to officers, employee, or authorized representatives of the United States or the State of Tennessee concerned with carrying out the provisions of the Act or when relevant in any proceeding under this article or other applicable laws. (Ord. #246 (91-006), Sept. 1991)

18-210. <u>Enforcement</u>. (1) <u>Hearings</u>. (a) Any hearing or re-hearing brought before the town council shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this section, the superintendent shall give the petitioner 10 days written notice of the time and place of the hearing.

(ii) The hearing provided may be conducted by the town council at a regular or special meeting. A quorum of the council must be present at the regular or special meeting in order to conduct the hearing.

A verbatim record of the proceedings of the hearings shall be made and filed with the council in conjunction with the findings of fact and conclusions of law made pursuant to § 18-210(1)(a)(i)--(xi). The transcript shall be made available to

set by the superintendent to cover preparation fees. In connection with the hearing, the chairperson of the (iv) council shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In the case of refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Smith County shall have the jurisdiction upon the application of the superintendent to issue an order requiring such person to appear and testify or produce evidence as the case Failure to obey such an order of the court is may require. punishable by the court as contempt.

the petitioner or any party to a hearing upon payment of a charge

(iii)

On the basis of the evidence produced at the hearing, (v)the council shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than 30 days following the close of the hearing by the person or persons designated by the chairperson.

The decision of the council shall become final and (vi) binding on all parties unless appealed to the courts as provided in § 18-210(1)(b).

(vii) Any person to whom an emergency order is directed shall comply therewith immediately, but on petition to the council shall be afforded a hearing as soon as possible, but in no case shall such a hearing be held later than 3 days from the receipt of such a petition by the council.

(viii) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairperson to rule on such manners as would require a ruling by the court under said rules.

The superintendent proof shall first call witnesses, (ix) which shall be followed by witnesses called by the other party. Rebuttal witnesses shall be called in the same order. The chairperson shall rule on any evidentiary questions arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing subject to approval of the council. The council, the superintendent, his representative, and all parties shall have the right to examine any witness. The council shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(x) Any person aggrieved by an order or determination of the superintendent where an appeal is not otherwise provided by this section may appeal said order or determination to be reviewed by the council under the provisions of this section. A written notice of appeal shall be filed with the superintendent, and said notice shall set forth with particularity the action or inaction of the superintendent complained of and the relief being sought by the person filing said appeal. A special meeting of the board may be called by the chairperson upon the filing of such an appeal, and the board may, at member's discretion, suspend the operation of the order or determination of the superintendent on which is based the appeal until such time as the board has acted upon the appeal.

(xi) The vice chairperson or the chairperson protem shall possess all the authority delegated to the chairperson by this section when acting in their absence or place.

(b) An appeal may be taken from any final order or other final determination of the superintendent or board by any party who is or may be adversely affected thereby to the chancery court pursuant to the common law writ of certiorari set in <u>Tennessee Code Annotated</u>, § 27-8-101, within 60 days from the date such order or determination is made.

(2) <u>Civil penalty</u>.

(a) (i) Any person or user who does any of the following acts or omissions shall be subject to a civil penalty of up to \$10,000 per day each day during which the act or omission continues or occurs:

(A) Violates any effluent standard or limitation imposed by a pretreatment program.

(B) Violates the terms or conditions of a permit issued pursuant to a pretreatment program.

(C) Fails to complete a filing requirement of a pretreatment program.

(D) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of a pretreatment program.

(E) Fails to pay user or cost recovery charges imposed by a pretreatment program.

(F) Violates a final determination or order of the council.

(ii) Any civil penalty shall be assessed in the following manner:

(A) The superintendent may issue an assessment against any person or user responsible for the violation.

(B) Any person or user against whom an assessment has been issued may secure a review of such assessment by filing with the superintendent a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the town council. If a petition for review of the assessment is not filed within 30 days of the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(C) When any assessment becomes final because of a person's failure to appeal the superintendent's assessment, the superintendent may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.

> (1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.

> (2) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, which also includes any penalties, costs, and attorney's fees incurred by the POTW as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damage.

(3) Cause of the discharge or violation.

(4) The severity of the discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters.

(5) Effectiveness of action taken by the violator.

(6) The technical and economic feasibility of reducing or eliminating the discharge.

(7) The economic benefit gained by the violator.

(D) The superintendent may institute proceedings for assessment in the name of the Town of Carthage in the chancery court of the county in which all or part of the violation occurred. (iii) The mayor and council may establish by regulation a schedule of the amount of civil penalty which can be assessed by the superintendent for certain specific violations or categories of violations.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Environment and Conservation for violations of <u>Tennessee Code Annotated</u>, § 69-3-115(a)(a)(F). Provided, however, the sum of the penalties imposed by this section and by § 69-3-115(a) shall not exceed \$10,000 per day for each day during which the act or omission continues to occur.

(3) <u>Assessment of noncompliance</u>. (a) The superintendent may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person(s) or user(s) pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program.

(b) If an appeal from such assessment is not made to the superintendent by the polluter or violator within 30 days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or any other sections of the ordinance, in removing, correcting, and terminating any pollution, and also compensation for actual damages caused by the violation to the POTW. The superintendent shall assess the expenses and damages incurred by the POTW to clear the obstruction, repair damage to the POTW, and otherwise rectify any impairment caused by the violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within 30 days, the superintendent shall bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the POTW. If the person responsible refuses to pay, the superintendent may apply to the appropriate court for a judgment and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of assessment.

(4) <u>Judicial proceedings and relief</u>. The superintendent may initiate proceedings in the chancery court of the county in which the activities occurred against any person or user who is alleged to have violated or is about to violate the pretreatment program, its industrial user permit, any article of this ordinance, or any order of the superintendent and/or council. In such action, the superintendent may seek, and the court may grant, injunctive relief and any other relief available in law or equity. (5) <u>Administrative enforcement remedies</u>. (a) <u>Notification of violation</u>. When the superintendent finds that any user has violated or is violating this article, or a wastewater permit or order issued hereunder, the superintendent or his agent may serve upon the user a written notice of violation (NOV). Within 10 days of receipt of the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after the receipt of the NOV.

(b) <u>Consent orders</u>. The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time frame also specified by the order. Consent orders shall have the same force and effect as administration orders issued pursuant to subparagraph (d) below.

(c) <u>Show-cause hearing</u>. The superintendent may order any user which causes or contributes to a violation of this ordinance, its wastewater permit, or any order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any principle executive, general partner, or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

(d) <u>Compliance order</u>. When the superintendent finds that a user has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements deemed reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) <u>Cease and desist orders</u>. When the superintendent finds that a user has violated or continues to violate this ordinance or any permit or order issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to do one of the following:

(i) Comply with the order.

(ii) Take the appropriate remedial or preventive action needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(f) <u>Emergency termination of service</u>. When the superintendent finds that an emergency exists in which immediate action is required to protect public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or the facilities of the POTW, the superintendent may, without prior notice, issue an order reciting the existence of such an emergency and requiring that certain action(s) be taken as the superintendent deems necessary to meet the emergency.

If the violator fails to respond or is unable to respond to the superintendent's order, the superintendent may take such emergency action as deemed necessary or contract with a qualified person to carry out the emergency measures. The superintendent may assess the person(s) responsible for the emergency condition for actual cost incurred by the superintendent in meeting the emergency.

If the emergency action adversely affects the user, the superintendent shall provide the user an opportunity for a hearing as soon as possible thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the superintendent may take any such authorized should the proof warrant such action.

(6) <u>Disposition of damage payments and penalties</u>. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the town and allocated and appropriated to the sewer system for the administration of its pretreatment program.

(7) <u>Vandalism</u>. Any and all damages incurred by the POTW due to acts of vandalism will be prosecuted to the full extent of the law. (Ord. #246 (91-006), Sept. 1991)

18-211. <u>Wastewater volume determination</u>. (1) <u>Metered water</u> <u>supply</u>. Charges and fees related to the volume of wastewater discharged to the POTW shall be based upon the user's total water consumption from all water supply sources. The total amount of water used shall be determined from public meters installed and maintained by the town and/or private meters installed and maintained at the expense of the user and approved by the town.

(2) <u>Wastewater volume</u>. When charges and fees based upon water usage and/or discharge and where, in the opinion of the POTW, a significant portion of the water received from any metered source does not flow into the sewer because of the principle activity of the user or removal by other means, the charges and fees will be applied only against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water must be provided by the user and approved by the town.

The users may install a meter of a type and at a location approved by the town to measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the superintendent.

(3) <u>Estimated wastewater volume</u>. For users where, in the opinion of the town, it is unnecessary or impractical to install meters, charges and fees may be based upon an estimate of the volume to be discharged. The estimate shall be prepared by the user and approved by the superintendent or his representative. The number of fixtures, seating capacity, population equivalent, annual production of goods and services, and other such factors as deemed rational by the POTW shall be used to estimate the wastewater discharge volume.

(4) <u>Domestic flows</u>. For the separate determination of the volumes of domestic and process flows from users for the purposes of calculating charges based on process wastewater flows alone, users shall install a meter of a type and at a location approved by the POTW. For users where, in the opinion of the POTW, it is unnecessary or impractical to install such a meter, the volume of the domestic and process wastewater shall be based upon an estimate prepared by the user and approved by the POTW. (Ord. #246 (91-006), Sept. 1991)

18-212. <u>Wastewater, charges and fees</u>. (1) <u>Purpose of charges and fees</u>. A schedule of charges and fees shall be adopted by the town which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program in order that sufficient revenues are collected to defray the POTW's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for equipment replacement, capital outlay, bond service costs, capital improvements, and depreciation.

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

- (a) Sewer service line charges.
- (b) Tap fees.
- (c) User charges.
- (d) Fees for monitoring requested by the user.
- (e) Fees for permit applications.
- (f) Fees based on wastewater characteristics and constituents.
- (g) Fees for discharge of holding tank wastes.
- (h) Inspection fees.
- (i) Industrial user permit fees.

Determination of charges. Charges and fees shall be based upon (3)a minimum basic charge for each premise, computed on the basis of normal wastewater from a domestic premise with the following characteristics:

-	300 mg/l
-	600 mg/l
-	300 mg/l
-	30 mg/l
-	100 mg/l

The charges and fees for all users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that user 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 that user which may include, but not be limited to, BOD, COD, suspended solids, oil and grease, and flow volume.

User charges. Each user of the POTW's sewer system will be levied (4)a charge for payment of indebtedness of the town and for the user's proportionate share of the operation, maintenance, and replacement costs of the sewer system. A surcharge may be levied against those users with wastewater that exceeds the strength of normal wastewater as defined in this ordinance.

The user charge will be computed from a base charge plus applicable surcharge. The base charge will be the user's proportionate share of the costs of operation, maintenance, and replacement for handling its periodic volume of normal wastewater plus the user's share of any bond amortization costs of the town.

Operation, maintenance, and replacement (OM&R) user (a) charges. Each user's share of OM&R costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

= User's charge for OM&R per unit time.

- $\begin{array}{c} C_u\\ C_t \end{array}$ = Total OM&R costs per unit of time, less costs recovered from surcharges.
- V, Total volume contribution from all users per unit = time.
- V_n Volume contribution from individual user per unit = time.

(b) <u>Bonded indebtedness charges</u>. Each user's share of bonded indebtedness costs will be based on a schedule which reflects the user's volumetric and/or waste strength contribution to the system.

(c) <u>User structures</u>. The surcharge will be the user's proportionate share of the OM&R costs for handling its periodic volume of wastewater which exceeds the strength of BOD₅, suspended solids, and/or other pollutants in normal wastewater as listed in § 18-212(3) of this ordinance. The amount of surcharge will be determined by the following formula:

$$C_s = (B_c X B + S_c X S + P_c X P) 8.34 V_u$$

Where:

- C_s = Surcharge for wastewater exceeding the strength of normal wastewater expressed in dollars per billing period.
- $B_c = OM\&R \text{ cost for treatment of a unit of } BOD_5 \text{ expressed}$ in dollars per pound.
- B = Concentration of BOD_5 from a user above the base level of 300 mg/l expressed in mg/l.
- S_c = OM&R costs for treatment of a unit of SS expressed in dollars per pound.
- S = Concentration of SS from a user above the base level of 300 mg/l, expressed in mg/l.
- P_c = OM&R costs for treatment of a unit of any pollutant which the POTW 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 surcharge will be established by the superintendent.
- V_u = Volume contribution of a user per billing period in million gallons based on a 24 hour average for a billing period.

The values of parameters used to determine user charges may vary from time to time. Therefore, the POTW is authorized to modify any parameter or value as often as is necessary. Review of all parameters and values shall be undertaken at least annually.

(d) <u>Pretreatment program charges</u>. Industrial users may be required to pay a separate pretreatment program charge. This charge will be based on the user's proportional share of the costs of administering the POTW pretreatment program, which includes costs incurred by the POTW for verification monitoring, analysis, and reporting. Each user's share of the pretreatment program costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

- C_u = User's charge for POTW pretreatment program per unit time.
- C_t = Total POTW pretreatment program costs per unit time.
- V_t = Total volume contribution of permitted industrial users per unit of time.
- V_u = Volume contribution from a permitted industrial user per unit of time.

(5) <u>Review of OM&R charges</u>. The POTW shall review at least annually the wastewater contribution by users, the total costs of OM&R of the treatment works, and its approved user charge system. The POTW shall revise the user charges to accomplish the following:

(a) Maintain the proportionate distribution of OM&R costs among users or classes of users.

(b) Generate sufficient revenue to pay the total OM&R costs of the treatment works.

(c) Apply any excess revenues collected to the costs of OM&R for the next year and adjust rates accordingly.

(6) <u>Charges for extraneous flows</u>. The costs of operation and maintenance for all flow not directly attributable to users, e.g., infiltration/inflow, will be distributed proportionally among all users of the treatment works.

(7) <u>Notification</u>. Each user will be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the user charges which are attributable to OM&R charges.

(8) <u>Billing</u>. Wastewater charges imposed by this ordinance shall be added to, included in, and collected with the monthly water service bills, and shall be due and payable monthly. This shall not affect the right of the POTW to collect wastewater charges from customers who utilize private or public water supplies from other utilities and who discharge wastewater to the POTW.

(9) <u>Collection</u>. Wastewater charges and fees imposed by this ordinance shall be collected by the town in a manner established by the superintendent.

(10) <u>Delinquent accounts</u>. The town may discontinue water service to any customer who has a delinquent wastewater charge until such wastewater charge has been paid, except as provided by state or local law.

(11) <u>Adjustments</u>. The town shall make appropriate adjustments in the wastewater charge of sewer customers for over or under registration of utility meters, leaks, or other recognized adjustments. (Ord. #246 (91-006), Sept. 1991)

18-213. <u>Administration</u>. (1) <u>Town council</u>. In addition to any other duty or responsibility otherwise conferred upon the board by this ordinance, the town council shall have the duty and power as follows:

(a) To recommend amendments or modifications to the provisions of this ordinance.

(b) To grant exceptions pursuant to the provisions of §§ 18-207 and 18-208, and to determine such issues of law and fact as are necessary to perform this duty.

(c) To hold hearings upon appeals from orders of actions of the superintendent as may be provided under the provisions of this ordinance.

(d) To hold hearings related to the suspension, revocation, or modification of a wastewater discharge permit and issue appropriate orders relating hereto.

(e) To hold hearings that may be required in the administration of this ordinance and to make determinations and issue orders necessary to effectuate the purposes of this ordinance.

(f) To request assistance from any officer, agent, or employee of the town and to obtain any necessary information or other assistance.

(g) The council, acting through its chairperson, shall have the power to issue subpoenas requiring attendance, the testimony of witnesses, and the production of documentary evidence relevant to any matter properly heard by the council.

(h) The chairperson shall be authorized to administer oaths to people giving testimony.

(2) <u>Superintendent</u>. (a) <u>Superintendent and staff</u>. The superintendent and his/her staff shall be responsible for the administration of all parts of this section.

(b) <u>Authority of superintendent</u>. The superintendent shall have the authority to enforce all sections of this ordinance. He/she shall be responsible and have the authority to maintain and operate the various treatment works, sewer lines, pump stations, and other appurtenances of the POTW. The superintendent shall be responsible for preparation of operating budgets subject to the normal budgetary processes of the town.

(c) <u>Records</u>. The superintendent shall keep in his office or at an appropriate storage facility all applications required under this chapter

a complete record thereof, including a record of all wastewater discharge permits.

(d) <u>Notice of national pretreatment standard</u>. The superintendent shall notify users identified in 40 CFR, Part 403.8(f)(2) of any applicable pretreatment standards or other applicable requirements promulgated by the EPA under the provisions of Section 204(b) of the Act (33 U.S.C. 1284), Section 405 of the Act (33 U.S.C. 1345), or under the provisions of Sections 3001, 3304, or 4004 of the Solid Waste Disposal Act. Failure of the superintendent to notify users shall not relieve the users from the responsibility of complying with these regulations.

(e) <u>Public participation notice</u>. The superintendent shall comply with the public participation requirements of 40 CFR, Part 25 in the enforcement of national pretreatment standards. The superintendent shall at least annually provide public notification in the largest local newspaper of all significant industrial users which, during the previous 12 months, significantly violated applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, a significant industrial user is in significant violation if its violations meet one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(ii) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken during a 6-month period equal or exceed the product of the daily average maximum limit or average limit times the applicable TRC (TRC=1.4 for BOD, TSS, and oil and grease; and 1.2 for all other pollutants except pH).

(iii) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the superintendent believes has caused, alone or in combination with other discharges, interference, or pass-through, including endangering the health of the POTW personnel and the general public.

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(v) Violation by 90 days or more after the schedule date of a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance. (vi) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic selfmonitoring reports, and reports on compliance with compliance schedules within 30 days of the due date.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations which the superintendent considers to be significant.

(f) <u>Regulations and standards</u>. The superintendent may promulgate rules, regulations, and design criteria not inconsistent with this ordinance and have them printed for distribution. These rules may include requirements for performing wastewater characterizations, analysis, and other measurements by standard methods approved by the superintendent.

(g) <u>Sewer credits</u>. The superintendent shall approve secondary meters and determine other kinds of sewer use charge credits.

(h) <u>Approves new construction</u>. The superintendent shall give approval in acceptance of newly constructed sanitary sewer lines, pump stations, and other appurtenances. (Ord. #246 (91-006), Sept. 1991)

18-214. <u>Miscellaneous provisions</u>. (1) <u>Pretreatment charges and fees</u>. The town may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the town's pretreatment program which may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications.

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.

(c) Fees for reviewing and responding to accidental discharge procedures and construction.

(d) Fees for filing appeals.

(e) Other fees as the town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the town. (Ord. #246 (91-006), Sept. 1991)

CHAPTER 3

INDUSTRIAL COST RECOVERY¹

SECTION

- 18-301. Purpose.
- 18-302. Definition of terms.
- 18-303. Industrial cost recovery provisions.
- 18-304. Collection and allocation of funds.

18-301. <u>Purpose</u>. This <u>Industrial Cost Recovery Chapter</u> is to be used in conjunction with the <u>Sewer Use Chapter</u> (chapter 2) to meet requirements of the Environmental Protection Agency. The Town of Carthage, Tennessee, at this time, has no industrial users being served by the sewerage system,² but to meet certain Environmental Protection Agency requirements has developed this Industrial Cost Recovery chapter showing how the industrial user introduces industrial waste into the town system. (1983 Code, § 8-401)

18-302. <u>Definition of terms</u>. (1) <u>Definitions</u>. For the purpose of this chapter on industrial cost recovery and unless the context specifically indicates otherwise the following terms shall have the following meaning:

(a) "Industrial user" shall be defined as a "major industrial user" in chapter 3, § 8-302 of this title with the exclusion of domestic wastes or discharges from sanitary conveniences in the determination of an equivalent 25,000 gpd of normal domestic wastewater.

(b) "Industrial cost recover period" shall mean the thirty year period during which the grant amount allocable to the treatment of wastes from industrial users is recovered from the industrial users of such works.

(c) "Significant industrial users" shall mean one which will contribute greater than ten percent (10%) of the design flow or design pollutant loading of the treatment works.

(2) The definitions found in chapter 3, § 8-302 of this title shall apply to the industrial cost recovery system unless the context or above mentioned definitions specifically indicate otherwise. (1983 Code, § 8-402)

¹Appendices A and B of Ord. #204 which provided this chapter are of record in the office of the city recorder.

²As of the date of the compilation of this code.

18-303. <u>Industrial cost recovery provisions</u>.¹ (1) <u>New industry provisions</u>. A new industry which connects to the treatment works shall begin industrial cost recovery payments on the date use is initiated and shall continue for the unexpired portion of the industrial cost recovery period or until the industry ceases use of the facility, whichever occurs first. Total industrial cost recovery 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 industrial cost recovery period.

(2) <u>Discontinuance of use by industrial users</u>. If an industrial user discontinues use of the treatment works (including termination of any agreement for reserve capacity), its payment for industrial cost recovery will cease. No reallocation of the industrial cost recovery payments will be made due to the unrecovered portion caused by the departure of any industrial user. Total industrial cost recovery recovered from any industry which discontinues use during the industrial cost recovery period shall be the federal cost of the capacity used multiplied by the ratio of its period of use to the industrial cost recovery period. A significant industry planning to discontinue its use of the treatment facility during the industrial cost recovery period must make its intention known in its letter of intent.

(3) <u>Conflict between local laws or agreements and federal industrial</u> <u>cost recovery requirements</u>. Any agreement between the Town of Carthage and any industry, or between the town and any other political jurisdiction, or other party, which purports to relieve any industry from payment of the federal share of the grant, or which purports to limit the power of the town to demand collection of the federal share of the cost of construction from each industrial user will not be grounds to circumvent or avoid the requirements of the town's industrial cost recovery system or applicable Environmental Protection Agency regulations.

 $^{^{1}}$ See tables 1 and 2 hereafter.

TABLE 1

ALLOCATION OF PROJECT COSTS ACCORDING TO COSTS OF TREATING FLOW, BOD, AND SUSPENDED SOLIDS

PROJECT ITEM			FLOW		BOD		SS
	TOTAL	%	AMOUNT	%	AMOUNT	%	AMOUNT
Pumping stations	\$ 80,400	100	\$ 80,400				
Preliminary treatment	44,900	50	22,450			50	\$ 22,450
Primary treatment	60,200			30	\$ 18,060	70	42,140
Secondary treatment	114,500			70	80,150	30	34,350
Chlorindation	44,400	60	26,640	20	8,880	70	8,880
Sludge handling	83,800			30	25,140	70	58,660
Building & Misc.	143,000	50	71,500	25	35,750	25	35,750
TOTAL CONSTRUCTION COST	571,200		200,990		167,980		202,230
Step 1 Costs (less I/I and SSES costs)	15,910	66	10,501	24	3,818	10	1,591
Step 2 Costs (design, inspection, etc.)	<u>119,807</u>	66	<u>79,072</u>	24	28,754	10	<u>11,981</u>
TOTAL COST FOR ICR	706,917		290,563		200,552		215,802
FEDERAL GRANT (75%)	\$530,187		\$217,922		\$150,414		\$161,851

TABLE 2

CAPITAL COSTS PER UNIT OF TREATMENT CAPACITY¹

FLOW:	Federal Grant Allocated to Flow		\$217,922	
	Design Flow		220,00 gpd	
	Cost per 1,000 gallons	$\frac{217,922}{220} =$	\$991/1000 gpd	
BOD:	Federal Grant Allocated	to BOD	\$150,414	
	Design BOD		474 lb/day	
	Cost per pound of BOD	$\frac{150,414}{474} =$	\$317/lb BOD/day	
Suspended Solids:			\$161,851	
	Design SS		592 lb/day	
	Cost per pound of SS \$	$3\underline{161,851}_{592} = \$273/1$	b SS/day	

¹These costs are to be recovered from any industrial users on the system over a thirty year period.

(4) <u>Reserve capacity</u>. If an industrial user enters into an agreement with the town to reserve a certain capacity in the treatment works, the user's industrial cost recovery payments shall be based on the total reserved capacity in relation to the design capacity of the treatment works. If the discharge of an industrial user exceeds the reserved capacity in volume, strength or delivery flow rate characteristics, the user's industrial cost recovery payment shall be increased to reflect the actual use. If there is no reserve capacity agreement between the industrial user and the town, and a substantial change in the strength, volume, or delivery flow rate characteristics of an industrial user's discharge share occurs, the user's share shall be adjusted proportionately.

(5) <u>Upgrading and expansion</u>. (a) Upgrading. If the treatment works are upgraded, each existing industrial user's share shall be adjusted proportionately.

(b) Expansion. If the treatment works are expanded, each industrial user's share shall be adjusted proportionately except that a user with reserved capacity shall incur no additional industrial cost recovery charges unless the user's actual use exceeded its capacity.

(6) <u>Adoption of industrial cost recovery system by outside authorities</u>. This industrial cost recovery system shall be incorporated in all agreements with municipalities or subscribers desiring to contribute wastes to the treatment works prior to their connection to the system.

(7) <u>Monitoring</u>. Monitoring requirements for significant industrial users shall be set by the superintendent but shall be no less than annually. Other industrial users shall be monitored on a random basis as deemed necessary by the superintendent. All monitoring will be done to reflect industry's impact on the system during periods of normal discharge. Type of sample frequency, type of analysis and reporting schedule shall be set by the superintendent. If the testing is performed by the superintendent, an adequate sample shall be made available to the industry, if requested, with the results of analysis made available to both parties. Testing performed by the industry for industrial cost recovery purposes shall be done in a laboratory approved by the superintendent.

(8) <u>Letters of intent</u>. Before connection to the system, a significant industrial user shall submit a letter of intent stating that it will pay that portion of the industrial cost recovery allocable to the treatment of its waste.

(9) <u>Industrial cost recovery review</u>. The industrial cost recovery system will be reviewed annually to determine if any changes or revisions need to be made to bring the industrial cost recovery system into compliance with applicable Environmental Protection Agency rules and regulations. (1983 Code, § 8-403)

18-304. <u>Collection and allocation of funds</u>.¹ (1) <u>Computation of industrial cost recovery payments</u>. Industrial cost recovery payments will be in proportion to those industrial wastewater characteristics which influence the cost of construction of the treatment works. These characteristics include strength, volume, and delivery flow rate. The following will be taken into consideration relative to the computation of the individual user's industrial cost recovery payment.

(a) If an industrial user's maximum flow (hourly, daily, monthly, seasonally, etc.) contributes to the cost of construction of a treatment works, it should be the basis for that user's industrial cost recovery payment. No credit shall be given to the industrial user for the time period when the user is not operating and not discharging wastewater.

(b) An industrial user's discharge of uncontaminated cooling waters into the treatment facilities shall be considered process wastes and will be included in the industrial cost recovery computation.

(c) Industrial users discharging pretreated process wastes into the municipal treatment facilities must pay industrial cost recovery based on the characteristics of the pretreated process wastes.

(2) <u>Exclusions from application of industrial cost recovery systems</u>. The industrial cost recovery will not be required on grant costs incurred for infiltration/inflow correction or treatment and correction of combined sewer overflows and collection or treatment of stormwaters.

(3) <u>Appeal procedure</u>. The town's industrial cost recovery system and plan shall be subject to the "appeals" subpart of the <u>Sewer Use Chapter</u> (Chapter 3, section 8-306(4)) in regard to the reasonableness of the allocations and industrial cost recovery assessments imposed upon them and provide a method whereby others affected by the industrial cost recovery system may obtain local review of the town's administration of the industrial cost recovery system.

(4) <u>Implementation of the industrial cost recovery system</u>. The industrial cost recovery period will begin from the date of beneficial use by the first industrial users. At the time of initiation of the industrial cost recovery period the town will establish an accounting period on an appropriate annual basis set to maintain administrative integrity and simplicity.

Not later than 30 days after the industrial cost recovery period begins, the town will establish the accounting period for the industrial cost recovery system and will notify the regional administrator, in writing, of the date of this implementation of the industrial cost recovery system. The first payment to the town by the industrial users shall be made not later than one year after the beginning of the industrial cost recovery period. The industrial cost recovery

¹See Tables 1 and 2 above.

assessment will be paid on a schedule set by the town in accordance with Environmental Protection Agency regulations.

(5) <u>Deposit of recovered funds</u>. All funds recovered during the annual accounting period shall be deposited in interest-bearing accounts which are fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof. Uncollected industrial cost recovery charges which mature into bad debts as a result of bankruptcy of any industrial users should be identified, but are not to be recovered from other industrial users or other sources, and the federal share of such charges will not be paid to the U.S. Government as long as they remain uncollected. The fund recovered in industrial cost recovery payments are not to be decreased by the town's cost of collection and administration of the industrial cost recovery.

(6) <u>Annual payment to Environmental Protection Agency</u>. At no less than annual intervals, no later than four (4) months after the end of the town's annual accounting period, the town shall submit to the regional administrator's financial management office a check for the annual industrial cost recovery payment to the Federal Government, made payable to the Environmental Protection Agency. This shall be 50 percent of the amounts received including any interest earned on the federal portion of recovered funds during the preceding annual accounting period.

(7) <u>Use of retained funds</u>. The town shall retain 50 percent of the amount recovered and may use this to pay the incremental costs of administration of the industrial cost recovery system.

(a) Of the portion remaining after deduction of the incremental costs, 80 percent (with any interest earned) shall be for costs for expansion and reconstruction of treatment works within the town's jurisdiction which would be eligible for a grant determined by a preliminary engineering report sufficiently detailed so as to permit a determination of eligible costs and an estimate of eligible cost. The town must obtain the written approval of the appropriate authority prior to committing any of the funds retained for the construction of treatment works.

(b) Discretionary funds retained by the grantee (20 percent of the retained funds) may be used for any purpose except for construction of industrial pretreatment facilities or rebates to industrial user(s) for costs incurred by such users in complying with federal user charge or industrial cost recovery requirements.

(8) <u>Industrial cost recovery charges</u>. The industrial cost recovery charges based on the Environmental Protection Agency grants excluding those used for infiltration/inflow abatement are:

\$991/1000 gpd
\$317/LB BOD/day
\$273/lb SS/day

These costs encompass the 30 year life of the treatment facilities and will be divided into payments for this period. (1983 Code, § 8-404)

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations.

18-401. <u>**Definitions**</u>. 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 Town of Carthage for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(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 does or may contain 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

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (1983 Code, § 8-501)

18-402. <u>Standards</u>. That the Town of Carthage public water supply system is to comply with <u>Tennessee Code Annotated</u>, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1983 Code, § 8-502)

18-403. <u>Construction, operation, and supervision</u>. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Public Health and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the waterworks of the Town of Carthage. (1983 Code, § 8-503)

18-404. <u>Statement required</u>. 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 waterworks a statement of the non-existence of unapproved or unauthorized auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1983 Code, § 8-504)

18-405. <u>Inspections required</u>. It shall be the duty of the superintendent of waterworks 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 reinspection, based on potential health hazards involved, shall be established by the superintendent of the waterworks for the Carthage public water supply system and shall be as approved by the Tennessee Department of Public Health. (1983 Code, § 8-505)

18-406. <u>Right of entry for inspections</u>. The superintendent of waterworks or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Carthage public water supply system for the purpose of inspecting the piping system or systems thereof for cross connections, auxiliary intakes, bypasses, 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. (1983 Code, \S 8-506)

18-407. <u>Correction of existing violations</u>. (1) Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by superintendent of waterworks of the Carthage public water supply.

(2) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the <u>Tennessee Code Annotated</u>, § 68-221-711, within a reasonable time and within the time limits set by the superintendent of waterworks for the Carthage public water supply, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

(3) Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitutes an extreme hazard of immediate concern of contaminating the public water system, the superintendent of waterworks shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is corrected immediately. (1983 Code, § 8-507)

18-408. <u>Use of protective devices</u>. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge or 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 waterworks for the Carthage public water supply, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Public Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent of waterworks the Carthage public water supply system prior to installation and shall comply with the criteria set forth by the Tennessee Department of Public Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Carthage public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the mayor or his designated representative. Water service shall all not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of services is critical, the superintendent of 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 Carthage public water supply system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of waterworks for the Carthage public water supply system.

If necessary, water service shall be discontinued (following legal notification) for failure to maintain backflow prevention devices in proper working order. Likewise, the removal, bypassing, or altering the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent of waterworks for Carthage public water supply system. (1983 Code, § 8-508)

18-409. <u>Unpotable water to be labeled</u>. That the potable water supply made available to premises 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. (1983 Code, § 8-509)

18-410. <u>Violations</u>. The requirements contained herein shall apply to all premises served by the Carthage public water supply system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Carthage Corporate Limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this code. (1983 Code, § 8-510)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.

2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished under franchise.

19-101. <u>To be furnished under franchise</u>. Electricity shall be furnished to the town and its inhabitants by the Upper Cumberland Electric Membership Cooperation under such terms as the town council shall grant.² The rights, powers, duties, and obligations of the town, its inhabitants, and the provider of electricity is stated in the agreements between the parties. (1983 Code, § 13-201)

¹Municipal code reference Electrical code: title 12.

²The agreements are of record in the office of the city recorder.

CHAPTER 2

$\underline{\mathbf{GAS}}^{1}$

SECTION

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished to the town and its inhabitants by Middle Tennessee Natural Gas under such franchise granted by the town council. The rights, powers, duties, and obligations of the town, its inhabitants, and the grantee of the franchise are stated in the franchise agreement which shall be binding upon the parties.² (1983 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. TELECOMMUNICATIONS TOWERS AND ANTENNA ORDINANCE.

CHAPTER 1

TELECOMMUNICATIONS TOWERS AND ANTENNA ORDINANCE

SECTION

- 20-101. Definitions.
- 20-102. Applicability
- 20-103. Requirements.
- 20-104. Regulations.
- 20-105. Application process.
- 20-106. Requirements for application.

20-101. <u>Definitions</u>. For purposes of this ordinance:

(1) "Alternative tower structure" shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

(2) "Antenna" shall mean any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(3) "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices or long distance providers, or the public switched telephone network.

- (4) "FAA" shall mean Federal Aviation Administration.
- (5) "FCC" shall mean Federal Communications Commission.

(6) "Height" shall mean, when referring to a tower or other structure, the distance measured from the finished grade or the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

- (7) "May" shall mean with permission.
- (8) "Shall" shall mean mandatory.

(9) "Tower" shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers; including, but not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and any support thereto. (Ord. #291, June 1999)

20-102. <u>Applicability</u>. All new towers or antennas within the town limits of Carthage shall be subject to these regulations, except as follows:

 $\label{eq:precising} Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of § 20-104(10) and § 20-104(11). (Ord. #291, June 1999)$

20-103. <u>**Requirements**</u>. (1) Each applicant for an antenna and/or tower shall provide to the planning commission, prior to council consideration, the following:

(a) An inventory of its existing towers, antennas or sites that are within the jurisdiction of the Town of Carthage.

(b) Specific information about the proposed location, height and design of each tower and/or antenna; and

(c) Proposed sites requested for approval.

(2) Towers and antennas shall meet the following:

(a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness;

(b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings;

(c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible;

(d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority;

(i) If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(e) All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas;

(i) If such standards and/or regulations are changed, the owners of the towers and/or antennas governed by this ordinance shall bring such towers and/or antennas into compliance with revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling state or federal agency.

(ii) Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(f) The owner shall ensure that the structural integrity of the towers and/or antennas is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are most recently published and amended by the Electronic Industries Association;

(i) If, upon inspection, the Town of Carthage concludes that a tower and/or antenna fails to comply with such codes and standards and constitutes a danger to persons and/or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards.

(ii) Failure to bring such tower and/or antenna into compliance within thirty (30) days of notice shall constitute grounds for removal of the tower and/or antenna at the owner's expense.

(3) Tower setbacks and separation distances shall be calculated and applied to facilities located in the Town of Carthage irrespective of county jurisdictional boundaries.

(4) Owners and/or operators of towers and/or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Town of Carthage have been obtained with a copy of each provided to the city recorder. (Ord. #291, June 1999)

20-104. <u>**Regulations**</u>. (1) It shall be unlawful for any person to install, erect, or use a tower and/or antenna without first making application to, and obtaining approval from the town council.

(2) No new tower shall be permitted unless the applicant demonstrates that no existing tower, structure or alternative technology that does not require the use of towers and structures can accommodate the applicant's proposed antenna.

(3) No signs shall be permitted on an antenna and/or tower.

(4) Buildings and support equipment associated with antenna and/or towers shall comply with all applicable requirements and codes.

(5) Any civil, mechanical and/or electrical engineering information that the applicant submits shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee. (6) Sites for locating a tower and/or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower and/or antenna shall be as follows:

- (a) Located in commercial or industrial zoning areas;
- (b) Meet setback requirements as listed in Table 2;

(i) In dimensions of the entire lot shall control the determination of the tower or antenna complying with town development regulations, including but not limited to, setback requirements and lot-coverage requirements.

(ii) Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower plus thirty (30) feet from any adjoining lot line.

(iii) Guys and accessory buildings must satisfy the minimum zoning setback requirements.

Separation Distance

TABLE 2

Off-site Use/Designated Area

1. Residential: Single family or duplex 200 feet or 300% height of including modular homes and mobile tower; whichever is greater 2.Residentially zoned land which is either 200 feet or 300% height of platted or has preliminary subdivision tower; whichever is greater plan approval. 3. Vacant unplatted residentially zoned 200 feet or 200% height of lands, multi-family residentially tower; whichever is greater Existing multi-family residential units 200 feet or 100% height of 4. greater than duplex units tower; whichever is greater 5. Non-residentially zoned lands or non-None, only setbacks apply residential uses

(c) Meet separation requirements as listed in Table 1:

(i) Tower separation shall be measured from the base of the tower to the lot line of the off-site users and/or designated areas.

(ii) Separation distances between towers shall be applicable and/or measured between the proposed tower and preexisting towers by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.

TABLE 1

Existing Towers-Types

	L	attice	Guyed	Monopole 75 ft. in Height or Greater	Monopole Less than 75 ft. in Height
Latt	ice	5000 ft.	5000 ft.	1500 ft.	750 ft.
Guyed		5000 ft.	5000 ft.	1500 ft.	750 ft.
Monopole 75 ft. in Height or Greater		1500 ft.	1500 ft.	1500 ft.	750 ft.
Monopole Less than 75 ft. in Height		750 ft.	750 ft.	750 ft.	750 ft.
1.	Residential: Single family or duplex, including modular homes and mobile homes used for living purposes		200 feet or 300% height of tower; whichever is greater		
2.	Residentially zoned land which is either platted or has preliminary			200 feet or 300% height of tower; whichever is greater	
3.	Vacant unplatted residentially zoned lands, multi-family residentially zoned greater than duplex			200 feet or 200% height of tower; whichever is greater	
4.	Existing multi-family residential units greater than duplex units		200 feet or 100% height of tower; whichever is greater		
5.	Non-residentially zoned lands or non-residential uses			None, only setbacks apply	

(d) Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anticlimbing device.

(e) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences.

(i) Standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

(ii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. (iii) Sites on large, wooded lots, with natural growth around the property perimeter may be considered sufficient buffer.

(f) Antennas mounted on utility poles or light poles shall have the equipment cabinet or structure used in association with antennas located in accordance with the following:

(i) Residential area. In a rear yard, provided the cabinet or structure is no greater than twelve (12) feet in height or 100 square feet in gross floor area when the cabinet/structure is located no more than twenty (20) feet from all lot lines and screened by an evergreen hedge with an ultimate height no less than eight (8) feet and a planted height of at least thirty-six (36) inches.

(ii) Residential area. In a front or side yard provided the cabinet or structure is no greater than 12 feet in height or 100 square feet of gross floor area and the cabinet/structure is located a minimum of forty (40) feet from all lot lines and screened by an evergreen hedge with an ultimate height no less than eight (8) feet and a planted height of at least thirty-six (36) inches.

(iii) Commercial/industrial area. The equipment cabinet or structure shall be no greater than twenty (20) feet in height or 200 square feet in gross floor area and screened by an evergreen hedge with an ultimate height no less than eight (8) feet and a planted height of at least thirty-six (36) inches.

(iv) Commercial/industrial area. In all instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with ultimate height of twelve (12) feet and a planted height of at least forty-eight (48) inches.

(g) Antennas located on towers and related unmanned equipment structure shall not contain more than 100 square feet of gross floor area or be more than twelve (12) feet in height and shall be located no closer than forty (40) feet from all lot lines.

(h) The tower meets the following height and usage criteria:

(i) Single user: Up to ninety (90) feet in height.

(ii) Two users: Up to one hundred twenty (120) feet in height.

(iii) Three or more users: Up to one hundred fifty (150) feet in height.

(i) A licensed professional engineer under the guidelines of the State of Tennessee shall certify the tower can structurally accommodate the number of shared users proposed by the applicant.

(7) Locating antennas or existing structures or towers shall be governed by the following:

(a) Any antenna not attached to a tower may be approved as an accessory use to any commercial, industrial, professional, institutional or multi-family structure of eight or more dwelling units, provided:

(i) The antenna does not extend more than thirty (30) feet above the highest point of the structure.

(ii) The antenna complies with all applicable FAA and FCC regulations.

(iii) The antenna complies with all applicable building codes.

(b) Antennas mounted on structures or rooftops shall have the equipment cabinet or structure used in association with antennas complying with the following:

(i) The cabinet or structure shall not contain more than 100 square feet of gross floor area or be more than 12 feet in height.

(ii) Buildings and/or structures which are less than sixtyfive (65) feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area and/or 12 feet in height, shall be located on the ground and shall not be located in the roof of the structure.

(iii) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten percent (10%) of the roof area.

(iv) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(8) An antenna which is attached to an existing tower may be approved to minimize adverse visual impacts associated with the proliferation and clustering of towers, collection of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collection is accomplished in a manner consistent with the following:

(a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the council allows reconstruction as a monopole.

(b) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna;

(i) The height change shall only occur one time per communication tower.

(ii) The additional height may not exceed distance separation.

(c) A tower which is being built to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(i) After the tower is rebuilt to accommodate collocation, only one tower shall remain on the site.

(ii) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers.

(iii) A licensed professional engineer under the guidelines of the State of Tennessee shall certify the tower can structurally accommodate the number of shared users proposed by the applicant.

(iv) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted after a public hearing and approval by the council.

(9) Special use permits may be approved by the council, with the recommendation of the zoning board, with the following provisions governing:

(a) Required for the construction of a tower or the placement of an antenna in agricultural zoning.

(b) Minimal adverse effects of the proposed tower on adjoining properties.

(c) Any civil, mechanical, and/or electrical engineering information that the applicant submits shall be certified by a licensed professional engineer under the guidelines of the State of Tennessee.

(d) Installing a cable microcell network through the use of multiple low-powered transmitter/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(10) Any antenna and/or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned.

(a) The owner of such antenna and/or tower shall remove the same within ninety (90) days of receipt of notice from the Town of Carthage.

(b) Failure to remove an abandoned antenna and/or tower with said ninety (90) days shall be grounds to remove the tower and/or antenna at the owner's expense.

(c) If there are two or more users of a single tower, then this provision shall not become effective until all approved users abandon the tower.

(11) Rebuilding damaged or destroyed towers or antennas shall be of the same type, height, location and density as the original facility approval.

(a) Building permits to rebuild the facility shall comply with the applicable building codes at that time and shall be obtained within 180 days from the date the facility is damaged or destroyed.

(b) If no building permit is obtained, the tower and/or antenna shall be deemed abandoned.

(c) After obtaining building permit, construction shall begin with 90 days or the tower and/or antenna shall be deemed abandoned. (Ord. #291, June 1999)

20-105. <u>Application process</u>. Prior to presentation to the council, all plans shall be submitted to the planning commission and/or board of zoning appeals for review.

Proposed location and use must comply with all setback and separation requirements as outlined in § 20-104.

The planning commission and/or zoning board will submit to the council, with comments if any, the proposal within sixty (60) days.

The council will approve/disa pprove the application within sixty (60) days of submission from the planning commission. (Ord. #291, June 1999)

20-106. <u>Requirements for application</u>. (1) Application shall be made to the city recorder, or such person as designated by the council to receive such applications.

(2) Each application shall be accompanied by a nonrefundable cashier's check in the amount of one thousand dollars (\$1,000.00) made payable to the Town of Carthage.

(3) Each applicant shall deposit with the city recorder a surety bond, not less than one million dollars (\$1,000,000), to cover the costs to the municipality if the applicant fails to meet applicable requirements as set forth in this ordinance. The bond will remain in effect to ensure adequate funds available for continued maintenance.

(4) Application for a tower shall be submitted with the following:

- (a) A scaled site plan clearly indicating:
 - (i) Location;

(ii) Design, type and height of the proposed tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(iii) On-site land uses and zoning;

(iv) Adjacent land uses and zoning;

(v) Adjacent roadways;

(vi) All properties within the applicable separation distances;

(vii) Proposed area of access (ingress and egress);

(viii) Setbacks from property lines;

(ix) Elevation drawings of the proposed tower and any other structures;

(x) Surrounding topography, tree coverage and foliage;

(xi) Roadway and parking.

(b) Legal description of the parent tract and leased parcel (if applicable).

(c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplanted residentially zoned properties.

(d) The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map.

(e) Identify the type of construction of the tower and the owner and/or operator.

(f) A landscape plan showing specific landscape materials.

(g) Method of fencing, finished color, method of camouflage and illumination (if applicable).

 $(h) \qquad A \ description \ of \ compliance \ with \ all \ applicable \ federal, \ state \ and \ local \ laws.$

(i) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

(j) A description of the suitability of the use of other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed tower.

(i) Costs of alternative technology that exceed new tower and/or antenna development shall not be presumed to render the technology unsuitable.

(k) A description of the feasible location(s) of towers within the Town of Carthage based upon existing physical, engineering, technological or geographical limitations.

(5) Each applicant must certify they have read, and are familiar with, the provisions of this ordinance.

(6) Every application that meets the requirements of this ordinance shall be considered by the council.

(7) In the event an applicant's circumstances change which affect the provisions set forth in this ordinance, the applicant shall notify the city recorder in writing fifteen (15) days from the change in circumstances.

(8) Any applicant denied approval three (3) times shall not be allowed to reapply until the expiration of one (1) year from the date of the third refusal. (Ord. #291, June 1999)

ORDINANCE NO. 300

)

)

)

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF CARTHAGE TENNESSEE.

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

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

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

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

<u>Section 1</u>. <u>Ordinances codified</u>. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Carthage Municipal Code," hereinafter referred to as the "municipal code."

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

<u>Section 3.</u> Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

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

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the

¹State law reference

)

For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code Annotated</u>, § 40-24-101 <u>et seq</u>.

ORD-3

extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Ì

)

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

<u>Section 6.</u> <u>Severability clause</u>. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

<u>Section 8.</u> Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

<u>Section 9.</u> 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.

<u>Section 10</u>. <u>Date of effect</u>. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading,	02-03	, 200 <u>0</u> .
Passed 2nd reading, _	03-02	, 200 <u>0</u>
Passed 3rd reading,	02-01	, 200 <u>1</u> .



}

)

)

Mayor

as Recorder