

**THE  
CARYVILLE  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

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*Change 3*  
*December 9, 2019*

**TOWN OF CARYVILLE, TENNESSEE**

**MAYOR**

Robert Stooksbury

**VICE MAYOR**

Beth Lawson

**ALDERMEN**

Vickie Heatherly

Eric Jones

Lloyd Lawson

Patrick Pebley

Eric Smith

**RECORDER**

Trecia Kindred

## **PREFACE**

The Caryville Municipal Code contains the codification and revision of the ordinances of the Town of Caryville, 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 city's charter.

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the 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, MTAS Administrative Specialist, and Lisa Murray,

Program Resource Specialist, is gratefully acknowledged.

Steve Lobertini  
Codification Consultant

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

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)
2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

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## **TITLE 1**

### **GENERAL ADMINISTRATION**<sup>1</sup>

#### **CHAPTER**

1. GOVERNING BODY.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

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<sup>1</sup>Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14 and Appendix-1.

## CHAPTER 1

### GOVERNING BODY<sup>1</sup>

#### SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Election.
- 1-105. Term of office.

**1-101. Time and place of regular meetings.** The governing body shall hold regular monthly meetings at 7:30 P.M. on the second Monday of each month at the municipal building. (1979 Code, § 1-101)

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

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

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<sup>1</sup>Charter references

For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

City Administrator: § 6-4-101.

Compensation: § 6-3-109.

Duties of Mayor: § 6-3-106.

Election of the board: § 6-3-101.

Oath: § 6-3-105.

Ordinance procedure

Publication: § 6-2-101.

Readings: § 6-2-102.

Residence requirements: § 6-3-103.

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

- (6) Reports from committees, members of the governing body, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1979 Code, § 1-102)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the transaction of business by and before the governing body 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. (1979 Code, § 1-103)

**1-104. Election.** Under authority of Tennessee Code Annotated, § 6-3-104, the terms of the mayor and three (3) aldermen elected to office on the first Saturday in April, 2000 for three year (3) year terms of office shall be extended to the state general election in November, 2003, or until their successors are elected and qualified, and the term of the three (3) aldermen elected on the first Saturday in April, 2001 for a term of four (4) years shall be extended to the state general election in November, 2006, or until their successors are elected and qualified. (Ord. #2000-02, Jan. 2000)

**1-105. Term of office.** In accordance with the provisions of Tennessee Code Annotated, § 6-3-102(b)(1), the terms of office of mayor and aldermen are changed from staggered two (2) year terms to staggered four (4) year terms as follows:

- (1) The three (3) aldermen elected in the city election in April, 1999 for a term of two (2) years and the mayor and three aldermen elected in the city election in April, 1998 for a term of two (2) years, shall complete their terms of office;
- (2) The mayor and three (3) aldermen elected in the city election in April, 2000 shall be elected for a term of three (3) years, expiring on the date of the city election in April 2003 or when their successors are elected and qualified;
- (3) The three (3) aldermen elected in city election in April 2001, shall be elected to a four (4) year term of office, expiring on the date of the city election in April 2005, or when their successors are elected and qualified;
- (4) Beginning with the city election in April 2001 and each and every four (4) years thereafter, the term of office of the mayor and aldermen shall be four (4) years, or until their successors are elected and qualified. (Ord. #2000-01, Jan. 2000)

## CHAPTER 2

### MAYOR<sup>1</sup>

#### SECTION

1-201. Generally supervises municipality's affairs.

1-202. Executes municipality's contracts.

**1-201. Generally supervises municipality's affairs.** The mayor shall have general supervision of all city affairs and shall perform the duties provided in the city charter.<sup>2</sup> (1979 Code, § 1-201)

**1-202. Executes municipality's contracts.** The mayor shall execute all contracts as authorized by the governing body. (1979 Code, § 1-202)

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<sup>1</sup>Charter references

For charter provisions related to the mayor, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the mayor, see the following sections:

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

<sup>2</sup>Charter reference

Duties of Mayor: § 6-3-106.

## CHAPTER 3

### **RECORDER**<sup>1</sup>

#### **SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

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

**1-301. To be bonded.** The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the governing body. (1979 Code, § 1-301)

**1-302. To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the governing body and shall preserve the original copy of all ordinances in a separate ordinance book. (1979 Code, § 1-302)

**1-303. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the governing body and for the municipality which are not assigned by the charter, this code, or the governing body to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1979 Code, § 1-303)

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<sup>1</sup>Charter references

City recorder: § 6-4-201, et seq.

Recorder as treasurer: § 6-4-401(c).

Recorder as judge: § 6-4-301(b)(1)(C).

## CHAPTER 4

### CODE OF ETHICS<sup>1</sup>

#### 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 nonvoting 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.

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

Campaign finance - T.C.A. Title 2, Chapter 10.

Conflicts of interests - T.C.A. §§ 6-54-107, 108; 12-4-101,102.

Conflict of interest disclosure statements - T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials - T.C.A. §§ 2-10-122,124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - T.C.A. § 39-16-401 and the following sections.

Ouster Law - T.C.A. § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in the appendix of the municipal code.



**1-401. Applicability.** This chapter is the code of ethics for personnel of the City of Caryville, Tennessee. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "city" or "City of Caryville" include these separate entities. (as added by Ord. #2007-02, April 2007)

**1-402. Definition of "personal interest."** (1) For purposes of §§ 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), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(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. #2007-02, April 2007)

**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting in the measure. (as added by Ord. #2007-02, April 2007)

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

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

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. #2007-02, April 2007)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #2007-02, April 2007)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2007-02, April 2007)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #2007-02, April 2007)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #2007-02, April 2007)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #2007-02, April 2007)

**1-410. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon 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, constitute a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or 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. #2007-02, April 2007)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the City of Caryville's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2007-02, April 2007)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

1. RECREATION ADVISORY BOARD.
2. INDUSTRIAL BOARD.

### RECREATION ADVISORY BOARD

#### SECTION

- 2-101. Created.
- 2-102. Powers and duties.
- 2-103. Membership and compensation.
- 2-104. Organizations and meetings.

**2-101. Created.** The Cary-Recreation Advisory Board (herein referred to as the "Board") is hereby created. (Ord. #92-2, May 1992)

**2-102. Powers and duties.** It shall be the duty of the board to study all matters relating to the development, maintenance and use of recreation facilities and make recommendations to the Caryville Town Council regarding such matters in accordance with Tennessee Code Annotated, § 11-24-103 (b)(1). (Ord. #92-2, May 1992)

**2-103. Membership and compensation.** The board shall consist of five (5) persons to be appointed by the mayor and council members and to serve for terms of two (2) years, except that the members of such board first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter. Vacancies in such board shall be filled only for the unexpired terms and such appointment shall be made by the mayor and council members. (Ord. #92-2, May 1992)

**2-104. Organizations and meetings.** The board shall elect from its appointed members a chairman, a vice-chairman and a secretary. The terms of office shall be for one (1) year with eligibility for re-election. The board shall meet in regular session on a quarterly basis. Meetings may also be called by the board chairman as the need arises. (Ord. #92-2, May 1992)

## CHAPTER 2

### INDUSTRIAL BOARD

#### SECTION

2-201. Board created.

2-202. Members.

2-203. Powers.

2-204. Funds.

**2-201. Board created.** The Town of Caryville hereby creates the Caryville Industrial Board which shall be subject to the provisions hereinafter set forth in this chapter. (Ord. #93-2, May 1993)

**2-202. Members.** The Industrial Board of Caryville, Tennessee shall consist of five (5) members who shall be appointed by the City Council for Caryville, Tennessee. Each member shall serve for a term of four (4) years. Any vacancy in an appointed membership shall be filled for the unexpired term by the Caryville City Council. (Ord. #93-2, May 1993)

**2-203. Powers.** The Industrial Board of Caryville, Tennessee shall have the power and authority, by all ethical and lawful methods, to seek to interest new industry to locate in Caryville, Tennessee and to that end the industrial board is hereby authorized to advertise in any manner or form. Said board shall further have the power and authority to take corrective action towards relieving, abolishing, or removing any and all industrial disadvantages that now exist and are practical of correction, same to include but not be limited to, excessive smoke, noise, and floods and to recommend to the city council such corrective steps towards improving the industrial advantages of Caryville, Tennessee as from time to time come to the attention of said industrial board. (Ord. #93-2, May 1993)

**2-204. Funds.** The Industrial Board of Caryville, Tennessee, is authorized to expend such funds of Caryville, Tennessee as may from time to time be appropriated to said board by the city council and that are necessary in promoting the industrial advantages of Caryville, Tennessee. (Ord. #93-2, May 1993)

**TITLE 3**  
**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

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

**CHAPTER 1**

**CITY JUDGE**

**SECTION**

3-101. City judge.

**3-101. City judge.** The officer 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. (1979 Code, § 1-501)

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<sup>1</sup>Charter references  
City Judge--City Court: § 6-4-301.

## CHAPTER 2

### 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. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1979 Code, § 1-502)

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

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions<sup>1</sup> for similar work in state cases. (1979 Code, § 1-508)

**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 city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1979 Code, § 1-511)

**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. (1979 Code, § 1-512)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 8-21-401.

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal 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. (1979 Code, § 1-506)



## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1979 Code, § 1-503)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1979 Code, § 1-504)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1979 Code, § 1-505)

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<sup>1</sup>State law reference

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

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** 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. (1979 Code, § 1-507)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1979 Code, § 1-509)

**3-403. Bond amounts, conditions, and forms.** 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 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. (1979 Code, § 1-510)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

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

1. SOCIAL SECURITY.
2. PERSONNEL POLICY.
3. TRAVEL REIMBURSEMENT REGULATIONS.

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

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

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this municipality to provide for all eligible employees and officials of the municipality, 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 municipality shall take such action as may be required by applicable state and federal laws or regulations. (1979 Code, § 1-701)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1979 Code, § 1-702)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1979 Code, § 1-703)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's

contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1979 Code, § 1-704)

**4-105. Records and reports to be made.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1979 Code, § 1-705)

**CHAPTER 2**

**PERSONNEL POLICY**<sup>1</sup>

**SECTION**

4-201--4-229. [Repealed.]

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<sup>1</sup>Ord. #2007-01 dated February 12, 2007 repealed and replaced the Caryville Personnel Policy (Ord. #99-4, Jan. 2000). The current policy and all revisions thereto are of record in the recorder's office.

## CHAPTER 3

### **TRAVEL REIMBURSEMENT REGULATIONS**

#### **SECTION**

- 4-301. Purpose.
- 4-302. Enforcement.
- 4-303. Travel policy.
- 4-304. Travel reimbursement rate schedule.
- 4-305. Administrative procedures.

**4-301. Purpose.** The purpose of this chapter and referenced regulations is to bring the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #93-5, Nov. 1993)

**4-302. Enforcement.** The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #93-5, Nov. 1993)

**4-303. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) Directly related to the conduct of the city business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-5, Nov. 1993)

**4-304. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-5, Nov. 1993)

**4-305. Administrative procedures.** The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #93-5, Nov. 1993)

## TITLE 5

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

#### CHAPTER

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

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

5-101. Official depository for city funds.

**5-101. Official depository for city funds.** The First State Bank of Jacksboro, Tennessee, is hereby designated as the official depository for all city funds. (1979 Code, § 6-101)

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<sup>1</sup>Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.



## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

**5-201. When due and payable.** Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1979 Code, § 6-201)

**5-202. When delinquent--penalty and interest.** All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. (1979 Code, § 6-202)

## CHAPTER 3

### PRIVILEGE TAXES

#### SECTION

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the said act. (1979 Code, § 6-301)

**5-302. License required.** No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1979 Code, § 6-302)

## CHAPTER 4

### WHOLESALE BEER TAX

#### SECTION

5-401. To be collected.

**5-401. To be collected.** The 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 Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1979 Code, § 6-401)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### LITIGATION TAX

#### SECTION

5-501. Levied.

5-502. Paid to city recorder.

**5-501. Levied.** Effective the first day of the month following the passage of this ordinance comprising this chapter, the city litigation taxes in effect in the City of Caryville City Court shall be as follows:

On cases in city court there is hereby levied a city litigation tax to match the state litigation tax of thirteen dollars and seventy-five cents (\$13.75). Said litigation tax is in addition to court costs otherwise previously established by ordinance. (Ord. #97-4, Dec. 1997, as replaced by Ord. #2005-01, March 2005)

**5-502. Paid to city recorder.** The privilege taxes levied pursuant to the ordinance comprising this chapter shall be paid to the city recorder monthly to be used for any municipal purposes. (Ord. #97-4, Dec. 1997, as replaced by Ord. #2005-01, March 2005)

## CHAPTER 6

### HOTEL/MOTEL TAX

#### SECTION

- 5-601. Definitions.
- 5-602. Tax levied.
- 5-603. Purpose—disposition and deposit of proceeds.
- 5-604. Tax is additional tax.
- 5-605. Collection of tax—refund.
- 5-606. Remittance of tax—monthly tax return—annual audit.
- 5-607. Restriction on operator.
- 5-608. Delinquent taxes—interest and penalty.
- 5-609. Records—inspection.
- 5-610. Administration and enforcement—taxpayers remedies.

**5-601. Definitions.** For purposes of this chapter:

- 1. "City" means the incorporated Town of Caryville, Tennessee.
- 2. "Clerk" means the City Recorder of the Town of Caryville, Tennessee.
- 3. "City legislative body" means the Board of Mayor and Aldermen of the Town of Caryville, Tennessee.
- 4. "Consideration" means the consideration charged, whether or not received for the occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without deduction therefrom, whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.
- 5. "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- 6. "Occupancy" means the use or possession, or the right to the use of possession, of any room, lodgings, spaces or accommodations in any hotel.
- 7. "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- 8. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental entity, or any other group or combination acting as a unit.

9. "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, or accommodations in a hotel for a period of thirty (30) continuous days. (Ord. #99-3, July 1999)

**5-602. Tax levied.** There is hereby levied a privilege tax of five (5.00%) percent on the rate charged by the operator upon the occupancy of each transient in any hotel located within the municipal boundaries of the Town of Caryville, Tennessee. (Ord. #99-3, July 1999)

**5-603. Purpose-disposition and deposit of proceeds.** It is hereby declared to be the purpose of this chapter to provide revenues for the support of the general functions of the municipal government of the Town of Caryville and the proceeds of the tax received from the tax levied pursuant to this chapter are allocated to and shall be placed in the general fund. (Ord. #99-3, July 1999)

**5-604. Tax is additional tax.** The tax herein levied is in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes and are in addition to all other fees and taxes now levied or authorized to be levied. (Ord. #99-3, July 1999)

**5-605. Collection of tax-refund.** 1.a. The tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the operator's hotel and given directly or transmitted to the transient.

b. The tax so invoiced shall be collected by such operator from the transient and remitted to the clerk as provided in §5-606 of this chapter.

2. When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged to that person, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (Ord. #99-3, July 1999)

**5-606. Remittance of tax-monthly tax return-annual audit.**

1. The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the city to the clerk no later than the twentieth (20<sup>th</sup>) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy as may be the custom of the operator and if credit is granted by the operator to the transient then the obligation to the city shall be that of the operator.

2. For the purpose of compensating the operator in accounting for the remitting of this tax, the operator shall be allowed two (2.00%) percent of the amount of the tax due and accounted for and remitted in the form of a deduction

in submitting the operator's report or return and paying the amount due by such operator, provided that the return and the amount due is not delinquent at the time of payment and provided further that the maximum deduction allowable to the operator for any one month shall not exceed the sum of twenty-five dollars (\$25.00).

3. a. The clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in the account provided for the general funds of the municipality.

b. A monthly return shall be filed with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of the tax.

c. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the clerk and approved by the city legislative body prior to use.

d. The clerk shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the city legislative body. (Ord. #99-3, July 1999)

**5-607. Restriction on operator.** No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax levied by this chapter or any part thereof will be assumed or absorbed by the operator or that the tax will not be added to the rent or, if added, that any part thereof will be refunded. Each occurrence of any such advertisement or statement by an operator is a violation of this chapter and shall be punishable by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #99-3, July 1999)

**5-608. Delinquent taxes-interest and penalty.** 1. Taxes collected by an operator which are not remitted to the clerk on or before the due dates provided in § 5-606 of this chapter are delinquent.

2. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12.00%) per annum, and is liable for an additional penalty of one percent (1.00%) for each month or fraction thereof such taxes are delinquent. The maximum penalty shall not exceed twenty-five percent (25.00%) of the tax due, provided, however that there shall be a minimum penalty in the amount of ten dollars (\$10.00) regardless of the amount of tax due or whether there is any tax due. Such interest and penalty shall become a part of the tax herein required to be remitted.

3. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is a violation of this chapter and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Ord. #99-3, July 1999)

**5-609. Records-inspection.** It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax for which the operator may have been liable for the collection and payment to the city, which records, the clerk shall have the right to inspect at all reasonable times. (Ord. #99-3, July 1999)

**5-610. Administration and enforcement-taxpayers remedies.**

1. The clerk in administering and enforcing the provisions of this chapter has, as additional powers, those powers and duties with respect to collecting taxes as are provided in Tennessee Code Annotated, title 67, or otherwise provided by law for clerks.

2. Upon any claim of illegal assessment and collection, the taxpayer shall, vis a vis the city, have the same remedies provided in Tennessee Code Annotated, title 67, which apply to the recovery of state taxes illegally assessed and collected and the provisions of Tennessee Code Annotated, § 67-1-707, shall be applicable to adjustments and refunds.

3. With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the clerk under authority of this chapter shall be refunded by the clerk; provided, however, that any claim for such refund alleged to have been erroneously or illegally paid shall be filed with the clerk, supported by proper proof, within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to refund and the claim for refund shall be barred.

4. Notice of any tax paid under protest shall be given to the clerk in writing and the mayor is hereby designated to be the municipal officer of the city against whom suit may be brought for recovery. (Ord. #99-3, July 1999)



## CHAPTER 7

### PURCHASING

#### SECTION

- 5-701. Purchase order required.
- 5-702. Local vendors.
- 5-703. Sealed bids.
- 5-704. Board of mayor and aldermen approval required.
- 5-705. Emergency or time limit.
- 5-706. Cooperative purchasing.

**5-701. Purchase order required.** All purchasing excluding monthly utilities, gasoline, insurance, lease payments, retainers, janitorial services, state dues, authorized employee deductions, payroll and tax deposits will require a purchase order to be issued by the mayor, vice mayor, department head or city recorder or a designated representative. Purchase orders five hundred dollars (\$500.00) or more must have one (1) signature by a member of the board of mayor and aldermen prior to ordering. Purchase orders of five hundred dollars (\$500.00) or less may be signed by issuing department head. (Ord. #85-39, Dec. 1985, as replaced by Ord. #2013-01, Feb. 2013, Ord. #2015-04, Jan. 2016 *Ch3\_12-9-19* and Ord. #2017-3, May 2017 *Ch3\_12-9-19*)

**5-702. Local vendors.** All purchase orders are to be made from local vendors when possible. If the local vendor is close to same cost of an out-of-town vendor's price, including freight, the local vendor shall be used. (Ord. #85-39, Dec. 1985, as replaced by Ord. #2013-01, Feb. 2013, Ord. #2015-04, Jan. 2016 *Ch3\_12-9-19* and Ord. #2017-3, May 2017 *Ch3\_12-9-19*)

**5-703. Sealed bids.** Contracts shall be put up for sealed bids on the town's need for items over ten thousand dollars (\$10,000.00), such as paving, repairs, construction and janitorial services. Contracts or purchases between five thousand dollars (\$5,000.00) to ten thousand dollars (\$10,000.00) must obtain three (3) quotes. (Ord. #85-39, Dec. 1985, as replaced by Ord. #2013-01, Feb. 2013, Ord. #2015-04, Jan. 2016 *Ch3\_12-9-19* and Ord. #2017-3, May 2017 *Ch3\_12-9-19*)

**5-704. Board of mayor and aldermen approval required.** The board of mayor, vice mayor, aldermen, department head, city recorder or a designated representative has the authority to purchase up to five hundred dollars (\$500.00) with one (1) signature by the department head. Purchases in the amount of five hundred dollars (\$500.00) to one thousand seven hundred fifty dollars (\$1,750.00) must have one (1) signature of a board member and department head on a purchase order. Purchases in the amount of one thousand

seven hundred fifty dollars (\$1,750.00) to three thousand dollars (\$3,000.00) must have two (2) signatures of a board member and department head on a purchase order and approval by majority vote from the board of mayor and aldermen prior to ordering. (as added by Ord. #2013-01, Feb. 2013, and replaced by Ord. #2015-04, Jan. 2016 ***Ch3\_12-9-19*** and Ord. #2017-3, May 2017 ***Ch3\_12-9-19***)

**5-705. Emergency or time limit.** In an emergency situation or a time limit situation, the mayor or vice mayor may obtain verbal permission from a majority of the board of mayor and aldermen and notify the city recorder or a designated representative to write the purchase order. Emergency purchases up to amount of three thousand dollars (\$3,000.00). (as added by Ord. #2013-01, Feb. 2013, and replaced by Ord. #2015-04, Jan. 2016 ***Ch3\_12-9-19*** and Ord. #2017-3, May 2017 ***Ch3\_12-9-19***)

**5-706. Cooperative purchasing.** Pursuant to Tennessee Code Annotated, § 12-3-1 009, the Town of Caryville may purchase through recognized multi-government alliances to utilize pricing discounts in lieu of bidding and quota requirements set forth in § 5-703. Approved cooperative alliances are as follows:

- (1) Tennessee state-wide contract approved by the department of general services;
- (2) Local Government Purchasing Cooperative; and
- (3) National Joint Powers Alliance. (as added by Ord. #2017-3, May 2017 ***Ch3\_12-9-19***)

## CHAPTER 8

### FUND BALANCE POLICY

#### SECTION

- 5-801. Purpose.
- 5-802. Categories.
- 5-803. Responsibility.
- 5-804. Order of use of restricted and unrestricted funds.
- 5-805. Authority to commit funds.
- 5-806. Stabilization funds.
- 5-807. Authority to assign funds.
- 5-808. Unassigned fund balance.

**5-801. Purpose.** The fund balance policy is intended to provide guidelines during the preparation and execution of the annual budget to ensure that sufficient reserves are maintained for unanticipated expenditures or revenue shortfalls. It is also intended to preserve flexibility throughout the fiscal year to make adjustments in funding for programs approved in connection with the annual budget. The fund balance policy should be established based upon a long-term perspective recognizing that stated thresholds are considered minimum balances. The main objective of establishing and maintaining a fund balance policy is for the town to be in a strong fiscal position that will allow for better position to weather negative economic trends. (as added by Ord. #2012-04, June 2012)

**5-802. Categories.** The fund balance consists of five (5) categories: nonspendable, restricted, committed, assigned and unassigned.

(1) Nonspendable fund balance consists of funds that cannot be spent due to their form (e.g. inventories and prepaids) or funds that legally or contractually must be maintained intact.

(2) Restricted fund balance consists of funds that are mandated for a specific purpose by external parties, constitutional provisions or enabling legislation.

(3) Committed fund balance consists of funds that are set aside for a specific purpose by the Town of Caryville Board of Mayor and Aldermen. Formal action must be taken prior to the end of the fiscal year. The same formal action must be taken to remove or change the limitations placed on the funds.

(4) Assigned fund balance consists of funds that are set aside with the intent to be used for a specific purpose by the Town of Caryville Board of Mayor and Aldermen. Assigned funds cannot cause a deficit in unassigned fund balance.

(5) Unassigned fund balance consists of excess funds that have not been classified in the previous four (4) categories. All funds in this category are

considered spendable resources. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls. (as added by Ord. #2012-04, June 2012)

**5-803. Responsibility.** (1) Nonspendable funds are those funds that cannot be spent because they are either:

(a) Not in spendable form (e.g. inventories and prepaids).

(b) Legally or contractually required to be maintained intact.

It is the responsibility of the finance director to report all nonspendable funds appropriately in the town's financial statements.

(2) Restricted funds are those funds that have constraints placed on their use either:

(a) Externally by creditors, grantors, contributors, or laws or regulations or other governments.

(b) By law through constitutional provisions or enabling legislation.

It is the responsibility of the finance director to report all restricted funds appropriately in the town's financial statements. All restricted funds must also be reported to the town's governing body within two (2) months of the end of the fiscal year. (as added by Ord. #2012-04, June 2012)

**5-804. Order of use of restricted and unrestricted funds.** When both restricted and unrestricted funds are available for expenditure, restricted funds should be spent first unless legal requirements disallow it.

When committed, assigned and unassigned funds are available for expenditure, committed funds should be spent first, assigned funds second, and unassigned funds last. (as added by Ord. #2012-04, June 2012)

**5-805. Authority to commit funds.** The town's governing body has the authority to set aside funds for a specific purpose. Any funds set aside as committed fund balance requires, at a minimum, the passage of a resolution by a simple majority vote. An ordinance may also be used. Commitment must take place prior to the June 30th of the applicable fiscal year. If the actual amount of the commitment is not available by June 30th, the resolution or ordinance must state the process or formula necessary to calculate the actual amount as soon as information is available. In the event the governing body wishes to lift the committed status of funds so that they may be used for general purposes, a formal action equal to that which originally committed the funds must be taken. (as added by Ord. #2012-04, June 2012)

**5-806. Stabilization funds.** The town's governing body has the authority to establish a financial stabilization account that will be a committed fund balance. A financial stabilization account may be established for the purpose of providing funds for an urgent event that affects the safety of the

general public (e.g. flood, tornado, etc.). The minimum level for the financial stabilization account is five percent (5%) of general fund expenditures. The recognition of an urgent event must be established by the mayor. The specific urgent event must be reported to the governing body at their next meeting. A budget amendment must be approved by the town's governing body. In the event that the balance drops below the established minimum level, the town's governing body will develop a plan to replenish the financial stabilization account balance to the established minimum level within four (4) years. (as added by Ord. #2012-04, June 2012)

**5-807. Authority to assign funds.** Upon passage of the fund balance policy, authority is given to the town's finance director to assign funds for specific purposes in an amount not to exceed five thousand dollars (\$5,000.00) per purpose or in total not to exceed twenty-five thousand dollars (\$25,000.00). Any funds set aside as assigned fund balance must be reported to the town's governing body at their next regular meeting and recorded in the minutes. The governing body has the authority to remove or change the assignment of funds with a simple majority vote.

The town's governing body has the authority to set aside funds for the intended use of a specific purpose. Any funds set aside as assigned fund balance requires a simple majority vote and must be recorded in the minutes. The same action is required to change or remove the assignment.

Upon passage of a budget ordinance where fund balance is used a source to balance the budget, the finance director shall record the amount as assigned fund balance. (as added by Ord. #2012-04, June 2012)

**5-808. Unassigned fund balance.** Unassigned fund balance is the residual amount of fund balance in the general fund. It represents the resources available for future spending. An appropriate level of unassigned fund balance should be maintained in the general fund in order to cover unexpected expenditures and revenue shortfalls.

Unassigned fund balance may be accessed in the event of unexpected expenditures up to the minimum established level upon approval of a budget amendment by the town's governing body. In the event of projected revenue shortfalls, it is the responsibility of the finance director to report the projection to the town's governing body on a quarterly basis and shall be recorded in the minutes.

Any budget amendment that will result in the unassigned fund balance dropping below the minimum level will require the approval of two-thirds (2/3) vote of the town's governing body.

The fund balance policy establishes a minimum unassigned fund balance equal to twenty-five percent (25%) of general fund expenditures. In the event that the balance drops below the established minimum level, the town's governing body will develop a plan to replenish the fund balance to the

established minimum level within two (2) years. (as added by Ord. #2012-04, June 2012)

## TITLE 6

### LAW ENFORCEMENT

#### CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

#### CHAPTER 1

### POLICE AND ARREST<sup>1</sup>

#### SECTION

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

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1979 Code, § 1-401)

**6-102. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1979 Code, § 1-402)

**6-103. Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1979 Code, § 1-403)

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

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<sup>1</sup>Municipal code reference

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

- (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. (1979 Code, § 1-404)

**6-105. Policemen may require assistance.** It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such person's assistance is requested by the policeman and is reasonably necessary. (1979 Code, § 1-405)

**6-106. Disposition of persons arrested.** Unless otherwise authorized by law, when any 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 and the alleged offender does not post the required bond, he shall be confined. (1979 Code, § 1-406)

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

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.
- (3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1979 Code, § 1-407)



## CHAPTER 2

### WORKHOUSE

#### SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

**6-201. County workhouse to be used.** The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1979 Code, § 1-601)

**6-202. Inmates to be worked.** All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1979 Code, § 1-602)

**6-203. Compensation of inmates.** Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him. (1979 Code, § 1-603)

**TITLE 7****FIRE PROTECTION AND FIREWORKS**<sup>1</sup>**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.

**CHAPTER 1****FIRE DISTRICT****SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be as follows: (Reserved for future use) (1979 Code, § 7-101)

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

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

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

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Fire Prevention Code,<sup>2</sup> 1979 edition, as recommended by the American Insurance Association is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, three (3) copies of the fire prevention code have 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. (1979 Code, § 7-201)

**7-202. Enforcement.** The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1979 Code, § 7-202)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Caryville, Tennessee. (1979 Code, § 7-203)

**7-204. Storage of explosives, flammable liquids, etc.** (1) The limits referred to in § 12.5b of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the American Insurance Association, Engineering and Safety Service, 85 John Street, New York, New York 10038.

(2) The limits referred to in § 16.22a of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

(3) The limits referred to in § 16.61 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

(4) The limits referred to in § 21.6a of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1979 Code, § 7-204)

**7-205. Gasoline trucks.** 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. (1979 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the governing body 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 governing body. (1979 Code, § 7-206)

**7-207. Violations and penalties.** It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code herein 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 governing body of the municipality 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. (1979 Code, § 7-207)

## CHAPTER 3

### **FIRE DEPARTMENT<sup>1</sup>**

#### **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. Equipment to be used only within corporate limits generally.
- 7-308. Chief to be assistant to state officer.

**7-301. Establishment, equipment, and membership.** There is hereby established a fire department to be supported and equipped from appropriations by the governing body of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the governing body and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1979 Code, § 7-301)

**7-302. Objectives.** 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. (1979 Code, § 7-302)

**7-303. Organization, rules, and regulations.** 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. (1979 Code, § 7-303)

**7-304. Records and reports.** The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel,

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<sup>1</sup>Municipal code reference

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

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. (1979 Code, § 7-304)

**7-305. Tenure and compensation of members.** The chief shall hold office so long as his conduct and efficiency are satisfactory to the governing body. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the governing body.

All personnel of the fire department shall receive such compensation for their services as the governing body may from time to time prescribe. (1979 Code, § 7-305)

**7-306. Chief responsible for training and maintenance.** The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1979 Code, § 7-306)

**7-307. Equipment to be used only within corporate limits generally.** No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless such fire is on city owned property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the city as to endanger such city property or unless expressly authorized in writing by the municipal governing body. (1979 Code, § 7-307)

**7-308. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of insurance and banking and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1979 Code, § 7-308)

**TITLE 8****ALCOHOLIC BEVERAGES**<sup>1</sup>**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1****INTOXICATING LIQUORS**<sup>2</sup>**SECTION**

- 8-101. Definitions.
- 8-102. Alcoholic beverages subject to regulation.
- 8-103. Application for certificate.
- 8-104. Applicant to agree to comply with laws.
- 8-105. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-106. Action on application.
- 8-107. Residency requirement.
- 8-108. Applicants for certificate who have criminal record.
- 8-109. Only one establishment to be operated by retailer.
- 8-110. Where establishments may be located.
- 8-111. Retail stores to be on ground floor; entrances.
- 8-112. Limitation on number of retailers.
- 8-113. Sales for consumption on premises.
- 8-114. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-115. Inspection fee.
- 8-116. Consumption of alcoholic beverages on premises.
- 8-117. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-118. Annual privilege tax to be paid to the city recorder.

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<sup>1</sup>Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

Employee and server permits: Tennessee Code Annotated,  
§ 57-3-701, et seq.

- 8-119. Concurrent sales of liquor by the drink and beer.
- 8-120. Advertisement of alcoholic beverages.
- 8-121. Violations.
- 8-122. Licensee responsible for officers and agents.
- 8-123. Location of liquor store.
- 8-124. Limitations on building containing liquor store.
- 8-125. Inspections generally.
- 8-126. Enforcement--violations--penalties.

**8-101. Definitions.** Whenever used in this title, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage." Alcoholic beverage means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer where the latter contains an alcohol content of five percent (5%) by weight or less. Alcoholic beverage also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages including beer containing less than one-half percent (1/2%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.

(2) "Applicant." A person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(3) "Applicant group." More than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the context provides, to operate a single liquor store pursuant to the same application.

(4) "Application." The form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(5) "Certificate of compliance." The certificate required in Tennessee Code Annotated, § 57-3-208, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(6) "City." The city is the City of Caryville, Tennessee.

(7) "Co-licensees." Persons who together hold a single local liquor store privilege license for a single liquor store.

(8) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

(9) "Inspection fee." The monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross



purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source. In the event of co-licensees holding a local liquor store privilege license for a single liquor store such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(10) "License fee." The annual fee a licensee is required by this chapter to pay prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(11) "Licensee." The holder or holders of a local liquor store privilege license. In the event of co-licensees, each person who receives a certificate of compliance and local liquor store privilege license shall be a licensee subject to the rules and regulations herein.

(12) "Liquor store." The building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(13) "Local liquor store privilege license." A local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(14) "Manufactured." A structure, transportable in one (1) or more sections, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation.

(15) "Person." Person means any natural person as well as any corporation, limited liability company, partnership firm or association or any other legal entity recognized by the laws of the State of Tennessee.

(16) "Retail sale or sale at retail." The sale to a consumer or to any person for any purpose other than for resale.

(17) "State law, rules and regulations." All applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed including, without limitation, the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(18) "State liquor retailer's license." A license issued by the alcoholic beverage commission of the State of Tennessee pursuant to Tennessee Code Annotated, § 57-3-201, et seq., permitting its holder to sell alcoholic beverages at retail in Tennessee.

(19) "Wholesaler." Wholesaler means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(20) "Wine." Wine means the produce of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climactic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (Ord. #99-5, Sept. 1999, as replaced by Ord. #2011-01, Feb. 2011)

**8-102. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57. (Ord. #99-5, Sept. 1999, as replaced by Ord. #2011-01, Feb. 2011)

**8-103. Application for certificate.**<sup>1</sup> Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen,<sup>2</sup> an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208.

<sup>2</sup>State law reference

Tennessee Code Annotated, § 57-3-208 requires the certificate to be signed by the mayor or a majority of the governing body.

(10) No retailer's license shall be issued to a person who is an elected official of the City of Caryville or a person who has held an elected office with the City of Caryville within two (2) years of the date of application.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each application shall be accompanied by a non-refundable three hundred dollar (\$300.00) application and investigation fee. Each application shall further be accompanied by a non-refundable background check fee of twenty-nine dollars (\$29.00) for each person/owner designated in said application.

Original application shall be accompanied by eight (8) copies of said original application. (Ord. #99-5, Sept. 1999, as replaced by Ord. #2011-01, Feb. 2011)

**8-104. Applicant to agree to comply with laws.** The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (Ord. #99-5, Sept. 1999, as replaced by Ord. #2011-01, Feb. 2011)

**8-105. Applicant to appear before board of mayor and aldermen; duty to give information.** An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (as added by Ord. #2011-01, Feb. 2011)

**8-106. Action on application.** Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed.

The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (as added by Ord. #2011-01, Feb. 2011)

**8-107. Residency requirement.**<sup>1</sup> The applicant for a certificate of compliance shall have been a bona fide resident of Campbell County, Tennessee for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Campbell County, Tennessee not less than one (1)

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<sup>1</sup>State law reference

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

year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #2011-01, Feb. 2011)

**8-108. Applicants for certificate who have criminal record.** No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #2011-01, Feb. 2011)

**8-109. Only one establishment to be operated by retailer.** No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the town. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (as added by Ord. #2011-01, Feb. 2011)

**8-110. Where establishments may be located.** It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the town except at locations zoned for that purpose. (as added by Ord. #2011-01, Feb. 2011)

**8-111. Retail stores to be on ground floor; entrances.** No retail store shall be located anywhere on premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (as added by Ord. #2011-01, Feb. 2011)

**8-112. Limitation on number of retailers.**<sup>1</sup> No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (as added by Ord. #2011-01, Feb. 2011)

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<sup>1</sup>State law reference

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

**8-113. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption on the premises of the retail seller. (as added by Ord. #2011-01, Feb. 2011)

**8-114. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #2011-01, Feb. 2011)

**8-115. Inspection fee.** (1) The Town of Caryville hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of all such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this section.

(3) Reports. The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchases from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified above.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole direction of the city manager, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof the licensee, no hearing with respect to such an offense being required. If a licensee has his or her license revoked, suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee. (as added by Ord. #2011-01, Feb. 2011)

**8-116. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Caryville, Tennessee. It is the intent of the board of mayor and alderman that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the Town of Caryville, the same as if said code sections were copied herein verbatim. (as added by Ord. #2011-01, Feb. 2011)

**8-117. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301) for the Town of Caryville to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Caryville of alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2011-01, Feb. 2011)

**8-118. Annual privilege tax to be paid to the city recorder.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Caryville shall remit annually to the city recorder the appropriate tax described in § 8-116. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #2011-01, Feb. 2011)

**8-119. Concurrent sales of liquor by the drink and beer.** Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the Town of Caryville, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-211(2) of the ordinances of the Town of Caryville, qualify to receive a beer permit from the city upon compliance of all Caryville beer permit requirements. (as added by Ord. #2011-01, Feb. 2011)

**8-120. Advertisement of alcoholic beverages.** All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and

regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2011-01, Feb. 2011)

**8-121. Violations.** 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. Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2011-01, Feb. 2011)

**8-122. Licensee responsible for officers and agents.** Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this chapter by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #2011-01, Feb. 2011)

**8-123. Location of liquor store.** It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city unless at a location approved by city council. One (1) retail liquor store shall be located within a C-2 Zone and one (1) retail liquor store shall be located within a C-4 Zone as appears on the official zoning map of the City of Caryville on the date of application. Such liquor store shall not be located within three hundred feet (300') of any church or school or one hundred feet (100') of any residential structure as measured along a straight line from the nearest property line of any such establishment to the front door of the liquor store. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety or morals. (as added by Ord. #2011-01, Feb. 2011)

**8-124. Limitations on building containing liquor store.** All liquor stores shall be a permanent type of construction in a material and design approved by city council. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the liquor store display area shall be one thousand five hundred (1,500) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, as adopted within the City of Caryville Code, unless specifically stated otherwise herein. (as added by Ord. #2011-01, Feb. 2011)

**8-125. Inspections generally.** The city manager, the city recorder, the city finance director, the chief of police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and record of any liquor store at any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee. (as added by Ord. #2011-01, Feb. 2011)

**8-126. Enforcement--violations--penalties.** Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, title 57, chapter 3, and the rules and regulations of said commission. (as added by Ord. #2011-01, Feb. 2011)



## CHAPTER 2

### BEER

#### SECTION

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

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (as added by Ord. #2011-01, Feb. 2011)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town 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. (as added by Ord. #2011-01, Feb. 2011)

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; names of the board members present and absent; 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. (as added by Ord. #2011-01, Feb. 2011)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (as added by Ord. #2011-01, Feb. 2011)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #2011-01, Feb. 2011)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight; provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (as added by Ord. #2011-01, Feb. 2011)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Caryville. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (as added by Ord. #2011-01, Feb. 2011)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). 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 Town of Caryville, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (as added by Ord. #2011-01, Feb. 2011)

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

as to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit. (as added by Ord. #2011-01, Feb. 2011)

**8-210. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, or churches, 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 or church and one hundred feet (100') of any residential structure. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, or church. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six-month period.

Any establishment that obtains an on premise license for the sale/consumption of wine and alcoholic beverages pursuant to Tennessee Code Annotated, title 57, shall be exempt from the distance requirements set forth above. (as added by Ord. #2011-01, Feb. 2011)

**8-211. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.** It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
- (2) Make or allow the sale of beer between the hours of 3:00 A.M. and 8:00 A.M. on weekdays (Monday through Saturday) and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his 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 premises.
- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(7) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(8) Fail to provide and maintain separate sanitary toilet facilities for men and women. (as added by Ord. #2011-01, Feb. 2011, and amended by Ord. #2019-01, April 2019 *Ch3\_12-9-19*)

**8-212. Revocation or suspension of beer permits.** The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years. (as added by Ord. #2011-01, Feb. 2011)

**8-213. Civil penalty in lieu of revocation or suspension.**

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

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes 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 the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #2011-01, Feb. 2011)

**8-214. Loss of clerk's certification for sale to minor.** If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #2011-01, Feb. 2011)

**8-215. Violations.** Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #2011-01, Feb. 2011)

## **TITLE 9**

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

#### **CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS AND PINBALL PARLORS.
6. SEXUALLY ORIENTED BUSINESSES.
7. PAIN MANAGEMENT AND METHADONE CLINICS.

#### **CHAPTER 1**

#### **MISCELLANEOUS**

#### **SECTION**

9-101. "Going out of business" sales.

**9-101. "Going out of business" sales.** It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1979 Code, § 5-101)

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14 and Appendix 1.

## CHAPTER 2

### **PEDDLERS, ETC.**<sup>1</sup>

#### **SECTION**

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

**9-201. Permit required.** It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1979 Code, § 5-201)

**9-202. Exemptions.** The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic or philanthropic organizations. (1979 Code, § 5-202)

**9-203. Application for permit.** Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

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<sup>1</sup>Municipal code references

Privilege taxes: title 5, chapter 3.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of ten dollars (\$10.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1979 Code, § 5-203)

**9-204. Issuance or refusal of permit.** (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1979 Code, § 5-204)

**9-205. Appeal.** Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or 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. (1979 Code, § 5-205)

**9-206. Bond.** Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1979 Code, § 5-206)

**9-207. Loud noises and speaking devices.** No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1979 Code, § 5-207)

**9-208. Use of streets.** No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1979 Code, § 5-208)

**9-209. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any policeman or citizen. (1979 Code, § 5-209)

**9-210. Policemen to enforce.** It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1979 Code, § 5-210)

**9-211. Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1979 Code, § 5-211)

**9-212. Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1979 Code, § 5-212)

**9-213. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1979 Code, § 5-213)

## CHAPTER 3

### CHARITABLE SOLICITORS

#### SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

**9-301. Permit required.** No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1979 Code, § 5-301)

**9-302. Prerequisites for a permit.** The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

- (1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.
- (2) The control and supervision of the solicitation will be under responsible and reliable persons.
- (3) The applicant has not engaged in any fraudulent transaction or enterprise.
- (4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.
- (5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1979 Code, § 5-302)

**9-303. Denial of a permit.** Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1979 Code, § 5-303)

**9-304. Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1979 Code, § 5-304)

## CHAPTER 4

### TAXICABS<sup>1</sup>

#### SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
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- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
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- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.
- 9-417. Fares.

**9-401. Taxicab franchise and privilege license required.** It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1979 Code, § 5-401)

**9-402. Requirements as to application and hearing.** No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab

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<sup>1</sup>Municipal code reference

Privilege taxes: title 5, chapter 3.

service; present the application to the governing body; and make a recommendation to either grant or refuse a franchise to the applicant. The governing body shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the governing body shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1979 Code, § 5-402)

**9-403. Liability insurance or bond required.** No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1979 Code, § 5-403)

**9-404. Revocation or suspension of franchise.** The governing body, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1979 Code, § 5-404)

**9-405. Mechanical condition of vehicles.** It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1979 Code, § 5-405)

**9-406. Cleanliness of vehicles.** All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day.

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1979 Code, § 5-406)

**9-407. Inspection of vehicles.** All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1979 Code, § 5-407)

**9-408. License and permit required for drivers.** No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1979 Code, § 5-408)

**9-409. Qualifications for driver's permit.** No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1979 Code, § 5-409)

**9-410. Revocation or suspension of driver's permit.** The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1979 Code, § 5-410)

**9-411. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1979 Code, § 5-411)

**9-412. Parking restricted.** It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1979 Code, § 5-412)

**9-413. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1979 Code, § 5-413)

**9-414. Taxicabs not to be used for illegal purposes.** No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1979 Code, § 5-414)

**9-415. Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to blow the automobile horn unnecessarily; or otherwise to disturb unreasonably the peace, quiet and tranquility of the municipality in any way. (1979 Code, § 5-415)

**9-416. Transportation of more than one passenger at the same time.** No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1979 Code, § 5-416)

**9-417. Fares.** Fares shall be posted in a conspicuous place, either inside or on the outside of the taxi. Each passenger shall be informed of the specific fare to his/her specific destination prior to departure. (1979 Code, § 5-417)

## CHAPTER 5

### **POOL ROOMS AND PINBALL PARLORS<sup>1</sup>**

#### **SECTION**

9-501. Prohibited in residential areas.

9-502. Hours of operation regulated.

9-503. Minors to be kept out; exception.

9-504. Gambling etc., not to be allowed.

**9-501. Prohibited in residential areas.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables, billiard tables or pinball machines are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1979 Code, § 5-501)

**9-502. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables, billiard tables or pinball machines are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1979 Code, § 5-502)

**9-503. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables or pinball machines, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls or pinball machines, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, pool tables and pinball machines in private residences. (1979 Code, § 5-503)

**9-504. Gambling, etc., not to be allowed.** It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables, billiard tables or pinball machines are kept for public use or hire to permit any

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<sup>1</sup>Municipal code reference

Privilege taxes: title 5, chapter 3.



gambling or other unlawful or immoral conduct on such premises. (1979 Code, § 5-504)

## CHAPTER 6

### SEXUALLY ORIENTED BUSINESSES

#### SECTION

- 9-601. Purpose; findings and rationale.
- 9-602. Definitions.
- 9-603. License required.
- 9-604. Issuance of license.
- 9-605. Fees.
- 9-606. Inspection.
- 9-607. Expiration and renewal of license.
- 9-608. Suspension.
- 9-609. Revocation.
- 9-610. Hearing; license denial, suspension, revocation; appeal.
- 9-611. Transfer of license.
- 9-612. Hours of operation.
- 9-613. Regulations pertaining to exhibition of sexually explicit films on premises.
- 9-614. Loitering, exterior lighting and monitoring, and interior lighting requirements.
- 9-615. Penalties and enforcement.
- 9-616. Applicability of chapter to existing businesses.
- 9-617. Prohibited conduct.
- 9-618. Scienter required to prove violation or business licensee liability.
- 9-619. Failure of town to meet deadline not to risk applicant/licensee rights.
- 9-620. Severability.
- 9-621. Conflicting code provisions repealed.

**9-601. Purpose; findings and rationale.** (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the

board of mayor and aldermen, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *NY. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *729, Inc. v. Kenton County Fiscal Court*, 515 F.3d 485 (6th Cir. 2008); *Deja Vu of Nashville, Inc. v. Metropolitan Gov 't of Nashville & Davidson County*, 466 F.3d 391 (6th Cir. 2006); *Deja Vu of Cincinnati, L.L.C., v. Union Township Bd. of Trustees*, 411 F.3d 777 (6th Cir. 2005) (en banc); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13, 1999)(table); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *State ex rel. Gibbons v. Jackson*, 16 S.W.3d 797 (Tenn. Ct. App. 1999); *City of Cleveland v. Wade*, 206 S.W.3d 51 (Tenn. Ct. App. 2006); *State ex rel. Dossett v. Richland Bookmart, Inc.*, 1990 WL 209331 (Tenn. Ct. App. 1990); *Silver Video USA v. Summers*, 2006 WL 3114220 (Tenn. Ct. App. 2006); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Z.J. Gifts D-2, LLC v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *World Wide Video of Spokane, Inc. v. City of Spokane*, 227 F. Supp. 2d 1143 (E.D. Wash. 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of NY., Inc. v. City of New York*, 793

N.Y.S.2d 356 (N.Y. App. Div. 2005); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas -2004; Kennedale, Texas-2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; and "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); the board of mayor and aldermen finds:

(a) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(b) Each of the foregoing negative secondary effects constitutes a harm which the town has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the town's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the town's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the town. The town finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

The town hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects. (as added by Ord. #2005-04, Sept. 2005, amended by Ord. #2007-09, Nov. 2007, and replaced by Ord. #2009-06, Oct. 2009)

**9-602. Definitions.** For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

(1) "Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one (1) or more of the following criteria:

(a) At least thirty-five percent (35%) of the establishment's displayed merchandise consists of said items; or

(b) At least thirty-five percent (35%) of the wholesale value of the establishment's displayed merchandise consists of said items; or

(c) At least thirty-five percent (35%) of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items; or

(d) At least thirty-five percent (35%) of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items; or

(e) The establishment maintains at least thirty-five percent (35%) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(f) The establishment maintains at least five hundred (500) square feet of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(g) The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or

(h) The establishment regularly features said items and regularly advertises itself or holds itself out, by using "adult," "adults-only," "XXX," "sex," "erotic," "novelties," or substantially similar language, as an establishment that caters to adult sexual interests; or

(i) The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

(2) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

(3) "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five (5) persons for any form of consideration.

(4) "Characterized by" means describing the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

(5) "Employ, employee, and employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(6) "Establish or Establishment" means and includes any of the following:

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

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

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

(7) "Floor space" means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

(8) "Hearing officer" means an attorney, not otherwise employed by the town, who is licensed to practice law in Tennessee, and retained to serve as an independent tribunal to conduct hearings under this chapter.

(9) "Influential interest" means any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business;

(b) Ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business; or

(c) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

(10) "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

(11) "Nudity" means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

(12) "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

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

(14) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

(15) "Regularly" means the consistent and repeated doing of an act on an ongoing basis.

(16) "Semi-nude" or "semi-nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

(17) "Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

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

(ii) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

(18) "Sexual device" means any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(19) "Sexual device shop" means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

(20) "Sexually oriented business" means an adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "semi-nude model studio," or a sexual device shop."

(21) "Specified anatomical areas" means and includes:

(a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(22) "Specified criminal activity" means any of the following specified crimes for which less than five (5) years has elapsed since the date of conviction or the date of release from confinement for the conviction whichever is the later date:

(a) Rape, aggravated rape, aggravated sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;

(b) Prostitution, patronizing prostitution, promoting prostitution;

(c) Assault;

(d) Obscenity;

(e) Dealing in controlled substances;

(f) Racketeering;

(g) Any attempt, solicitation, or conspiracy to commit one (1) of the foregoing offenses; or



(h) Any offense in another jurisdiction that, had the predicate act(s) been committed in Tennessee, would have constituted any of the foregoing offenses.

(23) "Specified sexual activity" means any of the following:

(a) Intercourse, oral copulation, masturbation or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities described in (a) above.

(24) "Town" means Caryville, Tennessee.

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

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(26) "Viewing room" means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-603. License required.** (1) Business license. It shall be unlawful for any person to operate a sexually oriented business in the town without a valid sexually oriented business license.

(2) Employee license. It shall be unlawful for any person to be an "employee," as defined in this chapter, of a sexually oriented business in the town without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(3) Application. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the police chief a completed application made on a form provided by the police chief. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (4) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee:

(a) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

(b) Current business address or another mailing address for the applicant.

(c) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(d) A set of fingerprint impressions of the fingers and thumbs taken by the Town of Caryville Police Department. The police department shall provide this service, upon payment of the nominal fee for such service, on business days between 9:00 A.M. and 5:00 P.M. upon request.

(e) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(f) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(g) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this chapter, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(h) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (i) Been declared by a court of law to be a nuisance; or
- (ii) Been subject to a court order of closure or padlocking.

(i) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this chapter shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The police chief may waive the requirements of this subsection (h) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

The information provided pursuant to this subsection (3) shall be supplemented in writing by certified mail, return receipt requested, to the police

chief within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(4) Signature. A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

(5) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the police chief on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-604. Issuance of license.** (1) Business license. Upon the filing of a completed application for a sexually oriented business license, the police chief shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the town and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of the town to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business license application, the police chief shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The police chief shall issue a license unless:

- (a) An applicant is less than eighteen (18) years of age.
- (b) An applicant has failed to provide information required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.
- (c) The license application fee required by this chapter has not been paid.
- (d) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this chapter or is not in compliance with the locational requirements of the Code of Ordinances of the Town of Caryville. A sexually oriented business that is operating as a lawful nonconforming use shall be deemed to be in compliance with the locational requirements of the code.

(e) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (i) Been declared by a court of law to be a nuisance; or
- (ii) Been subject to an order of closure or padlocking.

(f) An applicant has been convicted of or pled nolo contendere to a specified criminal activity, as defined in this chapter.

(2) Employee license. Upon the filing of a completed application for a sexually oriented business employee license, the police chief shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of the town to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business employee license application, the police chief shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The police chief shall issue a license unless:

(a) The applicant is less than eighteen (18) years of age.

(b) The applicant has failed to provide information as required by this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

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

(d) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

- (i) Been declared by a court of law to be a nuisance; or
- (ii) Been subject to an order of closure or padlocking.

(e) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this chapter.

(3) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-605. Fees.** The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses

shall be as follows: one hundred dollars (\$100.00) for the initial fee for a sexually oriented business license and fifty dollars (\$50.00) for annual renewal; fifty dollars (\$50.00) for the initial sexually oriented business employee license and twenty-five dollars (\$25.00) for annual renewal. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-606. Inspection.** Sexually oriented businesses and sexually oriented business employees shall permit the police chief and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the town to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-607. Expiration and renewal of license.** (1) Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this chapter.

(2) Application for renewal of an annual license should be made at least sixty (60) days before the expiration date of the current annual license, and when made less than sixty (60) days before the expiration date, the expiration of the current license will not be affected. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-608. Suspension.** (1) The police chief shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly or recklessly violated this chapter or has knowingly or recklessly allowed an employee or any other person to violate this chapter.

(2) The police chief shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee licensee has knowingly or recklessly violated this chapter. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-609. Revocation.** (1) The police chief shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this chapter or has knowingly or recklessly allowed an employee or any other person to violate this chapter and a suspension of the licensee's license has become effective within the previous twelve-month (12-mo.) period.

(2) The police chief shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable if:

(a) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;

(b) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;

(c) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(d) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;

(e) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business; or

(f) The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to consume alcohol or appear in a state of semi-nudity or nudity on the premises of the sexually oriented business.

(3) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(4) When, after the notice and hearing procedure described in this chapter, the town revokes a license, the revocation shall continue for one (1) year and the license shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-610. Hearing; license denial, suspension, revocation; appeal.**

(1) When the police chief issues a written notice of intent to deny, suspend, or revoke a license, the police chief shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the police chief for the respondent. The notice shall also set forth the following: the respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the police chief, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the police chief's written notice shall become a final denial, suspension, or

revocation, as the case may be, on the thirtieth (30th) day after it is issued, and shall be subject to the provisions of subsection (2) of this section.

If the respondent does make a written request for a hearing within said ten (10) days, then the police chief shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The town shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the police chief's witnesses. The police chief shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth (30th) day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the police chief to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the police chief shall contemporaneously therewith issue the license to the applicant.

(2) If any court action challenging a licensing decision is initiated, the town shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The town shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the police chief: upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the town's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the police chief shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the

court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the town's enforcement. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-611. Transfer of license.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-612. Hours of operation.** No sexually oriented business shall open to do business before 8:00 A.M., Monday through Saturday; and no such establishment shall remain open after 12:00 midnight, Monday through Saturday. No sexually oriented business shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-613. Regulations pertaining to exhibition of sexually explicit films on premises.** (1) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic imageproducing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(a) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The police chief may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to



any area of the premises which has been designated as an area in which patrons will not be permitted.

(c) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(d) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

(e) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms less than one hundred fifty (150) square feet is limited to one (1) person.

(ii) That specified sexual activity on the premises is prohibited.

(iii) That the making of openings between viewing rooms is prohibited.

(iv) That violators will be required to leave the premises.

(v) That violations of these regulations are unlawful.

(f) It shall be the duty of the operator to enforce the regulations articulated in subsection (e)(i) through (iv) above.

(g) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this subsection must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(h) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

(2) It shall be unlawful for a person having a duty under subsections (1)(a) through (1)h) to knowingly or recklessly fail to fulfill that duty.

(3) No patron shall knowingly or recklessly enter or remain in a viewing room less than one hundred fifty (150) square feet in area that is occupied by any other patron.

(4) No patron shall knowingly or recklessly by or remain within one foot (1') of any other patron while in a viewing room that is one hundred fifty (150) square feet or larger in area.

(5) No person shall knowingly or recklessly make any hole or opening between viewing rooms. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-614. Loitering, exterior lighting and monitoring, and interior lighting requirements.** (1) It shall be the duty of the operator of a sexually oriented business to:

(a) Ensure that at least two (2) conspicuous signs stating that no loitering is permitted on the premises are posted on the premises;

(b) Designate one (1) or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and

(c) Provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(2) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

(3) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(4) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-615. Penalties and enforcement.** (1) A person who violates any of the provisions of this chapter shall be guilty of a violation, and, upon conviction, shall be punishable by a fine not to exceed fifty dollars (\$50.00). Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

(2) The town's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this chapter to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the town, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this chapter, or any of the laws in force in the town or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

(3) Any premises, building, or other structure in which a sexually oriented business, as defined in this chapter, is repeatedly operated or maintained in violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the town, in a court of competent jurisdiction. Any premises, building, or other structure declared by the court to be a public nuisance may be closed for up to one year and the property owner assessed the costs of abatement. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-616. Applicability of chapter to existing business.** All preexisting sexually oriented businesses lawfully operating in the town in compliance with all state and local laws prior to the effective date of this chapter, and all sexually oriented business employees working in the town prior to the effective date of this chapter, are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this chapter. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this chapter. (as added by Ord. #2005-04, Sept. 2005, and replaced by Ord. #2009-06, Oct. 2009)

**9-617. Prohibited conduct.** (1) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.

(2) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet (6') from all patrons and on a stage at least eighteen inches (18") from the floor in a room of at least six hundred (600) square feet.

(3) No employee who regularly appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(4) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(5) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of a sexually oriented business.

(6) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

(7) A sign in a form to be prescribed by the police chief, and summarizing the provisions of subsections (1), (2), (3), (4), and (5), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign. (as added by Ord. #2009-06, Oct. 2009)

**9-618. Scienter required to prove violation or business licensee liability.** This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act. (as added by Ord. #2009-06, Oct. 2009)

**9-619. Failure of town to meet deadline not to risk applicant/licensee rights.** In the event that a town official is required to act or to do a thing pursuant to this chapter within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the town official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the town of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the town's action has passed. (as added by Ord. #2009-06, Oct. 2009)

**9-620. Severability.** This chapter and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter. (as added by Ord. #2009-06, Oct. 2009)

**9-621. Conflicting code provisions repealed.** Any provision(s) in the Code of Ordinances of the Town of Caryville specifically in conflict with any provision in this chapter is hereby deemed inoperative and repealed. Specifically, ordinance No. 2005-04 and ordinance No. 2007-09 are hereby repealed. (as added by Ord. #2009-06, Oct. 2009)

## CHAPTER 7

### **PAIN MANAGEMENT AND METHADONE CLINICS**

#### **SECTION**

- 9-701. Definitions.
- 9-702. License required.
- 9-703. Application for license.
- 9-704. Standards for issuance of license.
- 9-705. Permit required.
- 9-706. Fees.
- 9-707. Display of certification, license and permit.
- 9-708. Renewal of license.
- 9-709. Revocation of license of permit.
- 9-710. Inspections.
- 9-711. Penalties and prosecution.
- 9-712. Invalidity of part.

**9-701. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Applicant" owner of clinic who has submitted or is in the process of submitting an application.

(2) "Methadone treatment clinic or facility" means a licensed facility for counseling of patients and the distribution of methadone for out-patient, non-residential purposes only. A methadone treatment clinic or facility is not a medical clinic or substance abuse treatment facility as per the Caryville Zoning Ordinance.

(3) "Pain management clinic" means a privately owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve (12) month period. A pain clinic does not include a hospital, medical or dental school, nursing school, physician assistant program, outpatient clinic or hospital or clinic operated by the federal government. (as added by Ord. #2012-03, April 2012)

**9-702. License required.** From and after the effective date of this chapter, no methadone clinic or pain management clinic shall be operated or maintained in the Town of Caryville without first obtaining a license to operate issued by the Town of Caryville.

(1) A license may be issued for one (1) methadone or pain management clinic located at a fixed and certain place.

(2) No license or interest in a license may be transferred to any person, partnership, or corporation.

(3) All existing methadone or pain management clinics at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing methadone or pain management clinic shall cease operations.

(4) No license may be issued for any location unless the premises are lawfully zoned for methadone or pain management clinics and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #2012-03, April 2012)

**9-703. Application for license.** Any person, partnership, or corporation desiring a license shall make application to the Police Chief of the Town of Caryville. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(1) The application for a license shall be upon a form provided by the police chief. The application shall include the following information under oath:

(a) Name and addresses.

(b) Valid unrestricted license to operate such clinic.

(c) All residential addresses of the applicant(s) for the past three (3) years.

(d) Demonstrate that all applicable state requirements are met.

(e) A completed questionnaire that addresses the services offered, evaluation methods, treatment methods, the business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application, patient billing procedures, types of controlled substances that will be dispensed and standards implemented to ensure patient quality care.

(f) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(g) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(h) When applicable, proof for a dispenser of controlled substances that compliance with the Tennessee Controlled Substance Database has been met.

(2) Within ten (10) days of receiving the results of the investigation conducted by the Caryville Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall make a formal recommendation

to the Town of Caryville Board of Mayor and Alderman for the granting of a permit or denial of the permit. The Town of Caryville Board of Mayor and Alderman shall then consider the application at their regular meeting and make a decision on the application. Following this decision, the police chief shall advise the applicant in writing whether the application was granted or denied and the basis for the decision. All licenses shall further be held pending review/action of the board of zoning appeals.

(3) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action.

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or refusal to submit required information and shall be grounds for denial thereof by the police chief. (as added by Ord. #2012-03, April 2012)

**9-704. Standards for issuance of license.** To receive a license to operate a methadone or pain management clinic, an applicant must meet all state licensing and certification requirements pertaining to such clinic. (as added by Ord. #2012-03, April 2012)

**9-705. Permit required.** In addition to the license requirements previously set forth for owners and operators of such clinics, no clinic shall begin operations without first obtaining a valid permit issued by the building inspector. (as added by Ord. #2012-03, April 2012)

**9-706. Fees.** The following fees shall apply to all methadone and pain management clinics within the corporate limits:

(1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. #2012-03, April 2012)

**9-707. Display of certification, license and permit.** All applicable state certifications, medical licenses, city license and city permit shall be displayed in a conspicuous public place in the clinic. (as added by Ord. #2012-03, April 2012)

**9-708. Renewal of license.** Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from date of issuance, unless revoked before such time, and must be renewed before operation is allowed in the following year.



(1) Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned. (as added by Ord. #2012-03, April 2012)

**9-709. Revocation of license or permit.** The Town of Caryville Board of Mayor and Alderman shall revoke a license or permit for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(2) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city council pursuant to this chapter.

(3) The owner and/or operator becomes ineligible to obtain the required license from the applicable board.

(4) Applicable state certification is denied or revoked.

(5) Any cost or fee required to be paid by this chapter is not paid. (as added by Ord. #2012-03, April 2012)

**9-710. Inspections.** Any law enforcement or code enforcement officer is authorized access to inspect any facility registered under this chapter for proof of registration, at any reasonable hour, without notice. Nothing in this chapter shall be read to limit the authority of law enforcement in any matter as relates to their authority to conduct criminal investigations. (as added by Ord. #2012-03, April 2012)

**9-711. Penalties and prosecution.** Any person, partnership, corporation, or other business entity that is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #2012-03, April 2012)

**9-712. Invalidity of part.** Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only, such section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #2012-03, April 2012)

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

1. IN GENERAL.
2. DOGS.

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

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

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1979 Code, § 3-101)

**10-102. Pen or enclosure to be kept clean.** When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1979 Code, § 3-102)

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

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1979 Code, § 3-103)

**10-104. Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1979 Code, § 3-104)

**10-105. Cruel treatment prohibited.** It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1979 Code, § 3-105)

**10-106. Seizure and disposition of animals.** Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the governing body. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least one (1) public place within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the governing body.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the governing body, to cover the costs of impoundment and maintenance. (1979 Code, § 3-106)

**10-107. Inspections of premises.** 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. (1979 Code, § 3-107)

## CHAPTER 2

### DOGS

#### SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large prohibited.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1979 Code, § 3-201)

**10-202. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1979 Code, § 3-202)

**10-203. Running at large prohibited.**<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1979 Code, § 3-203)

**10-204. Vicious dogs to be securely restrained.** It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1979 Code, § 3-204)

**10-205. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1979 Code, § 3-205)

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

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<sup>1</sup>State 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. (1979 Code, § 3-206)

**10-207. Seizure and disposition of dogs.** Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the governing body. 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 five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the governing body, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) 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.<sup>1</sup> (1979 Code, § 3-207)

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<sup>1</sup>State law reference

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

**TITLE 11****MUNICIPAL OFFENSES<sup>1</sup>****CHAPTER**

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

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

11-101. Misdemeanors of the state adopted.

**11-101. Misdemeanors of the state adopted.** All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against this municipality also. Any violation of any such law within the corporate limits is also a violation of this section. (1979 Code, § 10-101)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Housing and utility codes: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

## CHAPTER 2

**ALCOHOL**<sup>1</sup>**SECTION**

11-201. Drinking beer, etc., on streets, etc.

11-202. Minors in beer places.

**11-201. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1979 Code, § 10-229)

**11-202. Minors in beer places.** No person under eighteen (18) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1979 Code, § 10-222)

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<sup>1</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).



**CHAPTER 3****FORTUNE TELLING, ETC.****SECTION**

11-301. Fortune telling, etc.

**11-301. Fortune telling, etc.** It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1979 Code, § 10-234)

## CHAPTER 4

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

**11-401. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1979 Code, § 10-202)

**11-402. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

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

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

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

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

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

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

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

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

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

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

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

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

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the municipality while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the municipality, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1979 Code, § 10-233)

## CHAPTER 5

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-501. Impersonating a government officer or employee.

11-502. False emergency alarms.

11-503. Coercing people not to work.

11-504. Escape from custody or confinement.

11-505. Resisting or interfering with an officer.

**11-501. Impersonating a government officer or employee.** No person other than an official police officer of the municipality 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 municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1979 Code, § 10-211)

**11-502. False emergency alarms.** 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 act. (1979 Code, § 10-217)

**11-503. Coercing people not to work.** It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1979 Code, § 10-230)

**11-504. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1979 Code, § 10-209)

**11-505. Resisting or interfering with an officer.** It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1979 Code, § 10-210)

## CHAPTER 6

### FIREARMS, WEAPONS AND MISSILES

#### SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the municipality 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. (1979 Code, § 10-213)

**11-602. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1979 Code, § 10-214)

**11-603. Weapons and firearms generally.** It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality. (1979 Code, § 10-212)

## CHAPTER 7

### **TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC**

#### **SECTION**

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

**11-701. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1979 Code, § 10-226)

**11-702. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1979 Code, § 10-221)

**11-703. Malicious mischief.** 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. (1979 Code, § 10-225)

**11-704. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1979 Code, § 10-232)

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

- 11-801. Abandoned refrigerators, etc.
- 11-802. Caves, wells, cisterns, etc.
- 11-803. Posting notices, etc.
- 11-804. Curfew for minors.
- 11-805. Wearing masks.
- 11-806. Assault and battery.

**11-801. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1979 Code, § 10-223)

**11-802. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1979 Code, § 10-231)

**11-803. Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1979 Code, § 10-227)

**11-804. Curfew for minors.** 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. 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. (1979 Code, § 10-224)

**11-805. Wearing masks.** 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 the city recorder to wear a traditional holiday costume. (1979 Code, § 10-235)



**11-806. Assault and battery.** It shall be unlawful for any person to commit an assault or an assault and battery upon any person. (1979 Code, § 10-201)

## CHAPTER 9

### OBSCENITY, MORALS

#### SECTION

- 11-901. Disorderly houses.
- 11-902. Immoral conduct.
- 11-903. Obscene literature, etc.
- 11-904. Indecent or improper exposure or dress.
- 11-905. Window peeping.
- 11-906. Profanity, etc.

**11-901. Disorderly houses.** It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or 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. (1979 Code, § 10-203)

**11-902. Immoral conduct.** No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (1979 Code, § 10-204)

**11-903. Obscene literature, etc.** It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of lending, selling, or otherwise circulating or exhibiting, any book, pamphlet, ballad, movie film, filmstrip, phonograph record, or other written, printed, or filmed matter containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. (1979 Code, § 10-205)

**11-904. Indecent or improper exposure or dress.** It shall be unlawful for any person publicly to appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or otherwise to make any indecent exposure of his or her person. (1979 Code, § 10-206)

**11-905. Window peeping.** No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy nor shall

he loiter around or within view of any such window with the intent of watching or looking through it. (1979 Code, § 10-207)

**11-906. Profanity, etc.** 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. (1979 Code, § 10-208)

**CHAPTER 10****LOITERING, ETC.****SECTION**

11-1001. Loitering.

11-1002. Prowling.

11-1003. Vagrancy.

**11-1001. Loitering.** It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to public use. (1979 Code, § 10-218)

**11-1002. Prowling.** It shall be unlawful for any person to prowl or wander about the streets, alleys, or other public or private ways or places, or be found abroad at night between the hours of midnight and 6:00 A.M. without any visible or lawful business and when unable to give a satisfactory account of himself. (1979 Code, § 10-219)

**11-1003. Vagrancy.** It shall be unlawful for any person to beg or solicit alms or, if without apparent lawful means of support, to wilfully neglect to apply himself to some honest occupation. (1979 Code, § 10-220)

**CHAPTER 11****GAMBLING****SECTION**

11-1101. Gambling.

11-1102. Promotion of gambling.

**11-1101. Gambling.** It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1979 Code, § 10-215)

**11-1102. Promotion of gambling.** It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1979 Code, § 10-216)

**TITLE 12****BUILDING, UTILITY, ETC. CODES****CHAPTER**

1. RESIDENTIAL AND COMMERCIAL BUILDING CODES.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. HANDICAPPED CODE.
7. ENERGY CODE.
8. PROPERTY MAINTENANCE CODE.

**CHAPTER 1****RESIDENTIAL AND COMMERCIAL BUILDING CODES<sup>1</sup>****SECTION**

- 12-101. Building codes adopted.  
12-102. Modifications.  
12-103. Available in recorder's office.  
12-104. Violations and penalty.

**12-101. Building codes adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means and egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Residential Building Code, 2012 edition,<sup>2</sup> and the International Commercial Building Code, 2012 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14, and Appendix 1.

Streets and other public ways and places: title 16.

Water and sewer: title 18.

<sup>2</sup>Copies of these codes (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

codes. (1979 Code, § 4-101, as replaced by Ord. #2010-09, Sept. 2010, Ord. #2012-09, Oct. 2012, and Ord. #2012-10, Jan. 2013, and amended by Ord. #2016-04, May 2016 **Ch3\_12-9-19**)

**12-102. Modifications.** (1) Definitions. Whenever in the international building code reference is made to the duties of a certain official named therein, that designated official of the City of Caryville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the international building code are concerned.

(2) Permit fees. The schedule of permit fees are of record in the recorder's office.

(3) 2012 International Residential Building Code to be amended or deleted:

1. R313.1 - Automatic Sprinkler systems in Townhouses, replace the exception with the following language: "An automatic residential fire sprinkler system shall not be required if a 2 hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/or mechanical equipment, ducts, or vents in the common walls."

2. R313.2 - Automatic Sprinkler systems in One- and Two-family dwellings: Delete in its entirety. (1979 Code, § 4-102, as replaced by Ord. #2010-09, Sept. 2010, Ord. #2012-09, Oct. 2012, and Ord. #2012-10, Jan. 2013, and amended by Ord. #2016-04, May 2016 **Ch3\_12-9-19**)

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the international building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-103, as replaced by Ord. #2012-09, Oct. 2012, and Ord. #2012-10, Jan. 2013)

**12-104. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the building codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (1979 Code, § 4-104, as replaced by Ord. #2012-09, Oct. 2012, and Ord. #2012-10, Jan. 2013, and amended by Ord. #2016-04, May 2016 **Ch3\_12-9-19**)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

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

**12-201. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the municipality, when such plumbing is or is to be connected with the municipal water or sewerage system, the International Plumbing Code,<sup>2</sup> 2012 edition, as prepared and adopted by the International Code Congress, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1979 Code, § 4-201, as amended by Ord. #2016-04, May 2016 *Ch3\_12-9-19*)

**12-202. Modifications.** 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 governing body of this municipality.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the municipal governing body to administer and enforce the provisions of the plumbing code. Section 110 of the plumbing code is hereby deleted. (1979 Code, § 4-202)

**12-203. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the plumbing code

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<sup>1</sup>Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

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



have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-203)

**12-204. Violations.** 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. (1979 Code, § 4-204)

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

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

**12-301. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,<sup>2</sup> 1979 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. (1979 Code, § 4-301)

**12-302. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the electrical code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-302)

**12-303. Permit required for doing electrical work.** No electrical work shall be done within this municipality until a permit therefor has been issued by the municipality. 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. (1979 Code, § 4-303)

**12-304. Violations.** It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1979 Code, § 4-304)

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<sup>1</sup>Municipal code references

Fire protection, fireworks and explosives: title 7.

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

**12-305. Enforcement.** The electrical inspector shall be such person as the municipal governing body 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. (1979 Code, § 4-305)

**12-306. Fees.** The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143, for electrical inspections by deputy inspectors of the state fire marshal. (1979 Code, § 4-306)

## CHAPTER 4

### GAS CODE

#### 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.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the municipality 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 municipal governing body.

(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. (1979 Code, § 4-401)

**12-402. Purpose and scope.** The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall

conform to the requirements of this chapter and to the Standard Gas Code,<sup>1</sup> 1979 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. Three (3) copies of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1979 Code, § 4-402)

**12-403. Use of existing piping and appliances.** 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. (1979 Code, § 4-403)

**12-404. Bond and license.** (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 conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1979 Code, § 4-404)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**12-405. Gas inspector and assistants.** 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 municipal governing body. (1979 Code, § 4-405)

**12-406. Powers and duties of inspector.** (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. (1979 Code, § 4-406)

**12-407. Permits.** (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 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. (1979 Code, § 4-407)

**12-408. Inspections.** (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. (1979 Code, § 4-408)

**12-409. Certificates.** 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. (1979 Code, § 4-409)

**12-410. Fees.** (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspections) shall be one dollar and fifty cents (\$1.50) for one to four outlets, inclusive, and fifty cents (\$0.50) for each outlet above four.

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be one dollar and fifty cents (\$1.50) for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be one dollar (\$1.00) for each unit.

(4) If the inspector is called back, after correction of defects noted, an additional fee of one dollar (\$1.00) shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1979 Code, § 4-410)

**12-411. Violations and penalties.** Section 114 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. (1979 Code, § 4-411)

**12-412. Nonliability.** This chapter shall not be construed as imposing upon the municipality 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 municipality, 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. (1979 Code, § 4-412)



## CHAPTER 5

### HOUSING CODE

#### SECTION

12-501. Housing code adopted.

12-502. Modifications.

12-503. Available in recorder's office.

12-504. Violations.

**12-501. Housing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,<sup>1</sup> 1979 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1979 Code, § 4-501)

**12-502. Modifications.** Wherever the housing code refers to the "building official" it shall mean the person appointed or designated by the municipal governing body to administer and enforce the provisions of the housing code. Wherever the "department of law" is referred to it shall mean the city attorney. Wherever the "chief appointing authority" is referred to it shall mean the municipal governing body. Section 108 of the housing code is deleted. (1979 Code, § 4-502)

**12-503. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the housing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-503)

**12-504. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1979 Code, § 4-504)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 6

### HANDICAPPED CODE

#### SECTION

12-601. Handicapped code adopted.

12-602. Available in recorder's office.

12-603. Violations.

**12-601. Handicapped code adopted.** In accordance with requirements set forth in Tennessee Code Annotated, §§ 68-120-201 through 68-120-205, the "Public Buildings Accessibility Act" be and is hereby adopted by the Town of Caryville. Said Tennessee Code Annotated sections listed above shall be in full force and effect and are incorporated into this code by reference. (1979 Code, § 4-601)

**12-602. Available in recorder's office.** Three (3) copies of the handicapped code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-602)

**12-603. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the handicapped code as herein adopted by reference. (1979 Code, § 4-603)

## CHAPTER 7

### ENERGY CONSERVATION CODE

#### SECTION

- 12-701. Energy conservation code adopted.
- 12-702. Available in recorder's office.
- 12-703. Violations.
- 12-704. Modifications.

**12-701. Energy conservation code adopted.** In accordance with requirements set forth in Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, the International Energy Conservation Code, 2012 edition, set forth in said sections be and is hereby adopted and incorporated into this code by reference. The energy conservation code shall have full force and effect in the Town of Caryville. (1979 Code, § 4-701, as amended by Ord. #2016-04, May 2016 *Ch3\_12-9-19*)

**12-702. Available in the recorder's office.** Three (3) copies of the energy code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1979 Code, § 4-702)

**12-703. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference. (1979 Code, § 4-703)

**12-704. Modifications.** 2012 International Energy Conservation Code exemptions and amendments for single family dwellings:

1. R401.3 - Exempt entire Certificate section.
2. R402.4 - R402.4. 1 .2 - Exempt entire air leakage testing section.
3. R402.1.1 - (Table) amend requirements and replace the R-Value for ceiling to be R-38..... R-Value for walls to be R-13..... R-Value for floor to be R-19. (as added by Ord. #2016-04, May 2016 *Ch3\_12-9-19*)

## CHAPTER 8

### **PROPERTY MAINTENANCE CODE**

#### **SECTION**

12-801. Property maintenance code adopted.

12-802. Modifications.

**12-801. Property maintenance code adopted.** A certain document, three (3) copies of which are on file in the office of the City Recorder of the Town of Caryville, being marked and designated as the International Property Maintenance Code, 2012<sup>1</sup> edition, as published by the International Code Council, be and is hereby adopted as the property maintenance code of the Town of Caryville in the State of Tennessee for regulating and govern conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit or occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the city recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 12-802 of this chapter. (as added by Ord. #2016-03, May 2016 *Ch3\_12-9-19*)

**12-802. Modifications.** There are no revisions. (as added by Ord. #2016-03, May 2016 *Ch3\_12-9-19*)

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<sup>1</sup>Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**TITLE 13****PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. SLUM CLEARANCE.

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

- 13-101. Health officer.
- 13-102. Adulterated food, drugs, and cosmetics.
- 13-103. Communicable diseases.
- 13-104. House trailers.
- 13-105. Smoke, soot, cinders, etc.
- 13-106. Stagnant water.
- 13-107. Weeds.
- 13-108. Dead animals.
- 13-109. Health and sanitation nuisances.
- 13-110. Spitting on streets, etc.
- 13-111. Milk ordinance adopted by reference.
- 13-112. Food service sanitation ordinance adopted by reference.

**13-101. Health officer.** The "health officer" may be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1979 Code, § 8-101)

**13-102. Adulterated food, drugs, and cosmetics.** It shall be unlawful and a violation of this section for any person to violate within this municipality any provisions of the state food, drug, and cosmetic laws. (1979 Code, § 8-102)

**13-103. Communicable diseases.** When there exists or is suspected to exist in any household a communicable disease other than a venereal disease or a common childhood disease it shall be the duty of any attending physician and the head or other responsible person in such household possessing

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<sup>1</sup>Municipal code references  
Animal control: title 10.  
Littering streets, etc.: § 16-107.  
Refuse: title 17.

knowledge of the facts to notify immediately the health officer. The health officer shall thereupon make such investigation and issue such quarantine orders as may reasonably be necessary to protect the public health. It shall be unlawful for any person to violate any such orders of the health officer. (1979 Code, § 8-103)

**13-104. House trailers.** It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1979 Code, § 8-104)

**13-105. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1979 Code, § 8-105)

**13-106. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1979 Code, § 8-106)

**13-107. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1979 Code, § 8-107)

**13-108. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1979 Code, § 8-108)

**13-109. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1979 Code, § 8-109)

**13-110. Spitting on streets, etc.** It shall be unlawful for any person to spit upon any public street or sidewalk or upon the floors or walks of any public place. (1979 Code, § 8-110)

**13-111. Milk ordinance adopted by reference.**<sup>1</sup> (1) The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for ultimate consumption within the \_\_\_\_\_ of \_\_\_\_\_ or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; and the issuance and revocation of permits to milk producers, haulers, and distributor shall be regulated in accordance with the provisions of Part I of the Grade A Pasteurized Milk Ordinance – 1965 Recommendations of the United States Public Health Service,<sup>2</sup> three (3) copies of which shall be filed in the office of the city recorder; provided, that in Section 1, "Definitions," A, "Milk" - Milk shall be understood to contain not less than 8½ percent milk solids-not-fat less than 8 1/4 percent milk solids-not-fat and not less than 3 1/4 percent milk fat" shall be deleted; D - "Reconstituted or recombined milk and milk products" and, I - "Fortified milk and milk products" shall be deleted; O - "Milk products" – It shall be understood that "cottage cheese" and "creamed cottage cheese" have been added to this definition as defined in footnote No. four and that "modified skim milk," modified flavored skim milk drink," and "modified cultured buttermilk" as defined in the Tennessee Dairy Laws are included in this definition; provided further, that in Section 3, the paragraph beginning with the words, "Upon written application of any person whose permit has been suspended \_\_\_\_\_," shall be deleted in its entirety, and any reference elsewhere in this ordinance dealing with hearings before a permit can be suspended is also deleted; provided further, that the last sentence in the first paragraph of Section 5 shall read "Any violation of the same requirement of Section 7 on such reinspection shall call for permit suspension in accordance with Section 3 as amended, and/or court action,"; provided further, that Sections 9, 16, and 17 of said unabridged ordinance shall be replaced respectively by subsection (2), (3), and (4) below.

(2) From and after the date on which this ordinance is adopted, only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; provided, that in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be

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<sup>1</sup>The provisions in this section are taken substantially from the model ordinance prepared and distributed by the Tennessee Department of Public Health.

<sup>2</sup>This ordinance is Public Health Service Publication No. 229 and is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402. Price \$1.25.

authorized by the health authority, in which case, such milk and milk products shall be labeled "ungraded."

(3) Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$50.00, and/or such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

(4) All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect upon its adoption as provided for by law. (1979 Code, § 8-112)

**13-112. Food service sanitation ordinance adopted by reference.**

(1) The definitions; the inspection of food-service establishments; the issuance, suspension, and revocation of permits to operate food-service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of food service sanitation regulations shall be regulated in accordance with the unabridged form of the 1962 edition of the United States Public Health Service Sanitation Ordinance and Code,<sup>1</sup> three copies of which are on file in the office of the town recorder provided, that the words "municipality of \_\_\_\_\_" in said unabridged form shall be understood to refer to the Town of Caryville, Tennessee; provided further, that in said ordinance all parenthetical phrases referring to grading and subsection H.2.e. shall be understood be deleted; and provided further, that subsections H.7. and H.8. shall be replaced respectively by subsections (2) and (3) below.

(2) Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars (\$50.00). In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

(3) This ordinance shall be in full force and effect from and after its adoption as provided by law and all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. (1979 Code, § 8-113)

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<sup>1</sup>This ordinance and the code are contained in Public Health Service Publication No. 934 which is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402. Price 55 cents.



## CHAPTER 2

### JUNKYARDS

#### SECTION

#### 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1979 Code, § 8-111)

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

## CHAPTER 3

### SLUM CLEARANCE

#### SECTION

13-301. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises.

13-302. Definitions.

13-303. Notice to clean up premises by owner.

13-304. Cleaning up the premises by the Town of Caryville.

13-305. Collection of costs incurred by the Town of Caryville.

13-306. Administration.

13-307. Attorney's fee for collecting costs.

**13-301. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises.** The owners of all lots or property within the corporate limits of the Town of Caryville are hereby required to cut, trim or remove all weeds, grass, tree branches and offensive or hazardous material from the site. It shall be unlawful for any person to allow junk cars, abandoned appliances and other debris to accumulate on property under his/her control.

This chapter shall be enforceable when it is determined by the building inspector that a nuisance or a health hazard exists. (Ord. #92-3, March 1994)

**13-302. Definitions.** The purpose of this section is to eliminate ambiguity by providing full definition of certain words which are used in this chapter.

(1) "Abandoned appliances" shall mean any manufactured appliance(s) not functional and not presently used for its manufactured purpose.

(2) "Grass" shall mean any of numerous plants of the family Graminea measured to be a maximum of one foot in height measuring from the base of the plant at ground-surface level.

(3) "Junk car" shall mean any automobile or motor vehicle manufactured for transportation which is incapable of being self-propelled upon the public streets or which does not meet the requirements for operation upon the public streets, including current licenses and registration. Also, if the vehicle is not functional within sixty (60) days of the notice and not registered within sixty (60) days, it is considered a junk car.

(4) "Offensive or hazardous materials" shall mean any tangible or intangible material which is disagreeable to the senses, and/or a material which may be dangerous to the environment or the people.

(5) "Weeds" shall mean any of various usually common or abundantly growing plants measured to be a minimum of one foot in height measuring from

the base of the plant at ground-surface level. (Ord. #92-3, March 1994)

**13-303. Notice to clean up premises by owner.** Upon the failure of any owner to cut, trim, and remove all weeds, grass, tree branches, offensive or hazardous materials and/or junk cars, abandoned appliances, and other debris as noted in the first section of this chapter, it shall be the duty of the building inspector to serve a notice mailed by certified mail to the last known address of the person or persons having control over the offending premises, or such notice may be served personally to the owner of the property or may be posted on the property in which the violation exists. Service of notice shall consist of any of the above methods and shall state:

You are hereby notified that the premises under your control, being (property description) have been found to be in an unsanitary, unhealthy and unattractive condition.

You are directed by the Town of Caryville to remove all accumulation of \_\_\_\_\_ (weeds, grass, tree branches, offensive or hazardous materials to include junk cars, abandoned appliances and other debris) from the premises within the next five (5) days at your own expense.

Should you fail to act upon this directive within the above described time, the Town of Caryville shall take appropriate action. (Ord. #92-3, March 1994)

**13-304. Cleaning up the premises by the Town of Caryville.** The owner of all lots in violation may request that the Town of Caryville cleanup his/her or their premises. Upon receipt of the request, the town shall enter into a contract with the owner outlining the cost to be incurred, for the cutting, cleaning or removal of his/her or their property, and all such costs shall be paid in advance by the owner and in accordance with those costs paid by the State of Tennessee for similar services performed by the town. The street commissioner shall have the right to accept or reject any request made by the property owner whose property is in violation of this chapter.

Upon the failure of any owner of lots or property to cut/remove or to cause to be cut/removed all violations specified in this chapter upon the property described in the sections above, within five (5) days thereof, the street department, acting through the direction of street commissioner and at his direction, is authorized and directed to cut/remove or have cut/removed, trimmed, clipped, or cleared all such violations as specified in this chapter and a statement of the cost thereof shall be prepared by the office of the street commissioner and filed with the town recorder for collection. Work performed by the street department shall not commence until such time a contract is executed by the owner, approved by the street commissioner and payment received. (Ord. #92-3, March 1994)

**13-305. Collection of costs incurred by the Town of Caryville.**

Upon receipt of such statement of costs from the street commissioner, the town recorder shall bill the owner, by certified mail, in a manner similar to that followed in mailing monthly utility bills, for the amount of the costs incurred by the town for such cutting or clearing of his/her or their property and the town shall commence cleanup activities within thirty (30) days of execution of contract agreement and payment. (Ord. #92-3, March 1994)

**13-306. Administration.** The Town of Caryville's building inspector shall be responsible for the administration and enforcement of this chapter. (Ord. #92-3, March 1994)

**13-307. Attorney's fee for collecting costs.** All uncollected sums for the cutting, trimming, and removal of the accumulated debris, as specified in this chapter, for each year, including interest and all costs incurred by the town for remedying the specified violation, after notice to the property owner as herein provided, are hereby declared to be a special tax to be collected as other general taxes levied by the town, including real estate taxes and special assessments. When placed in the hands of the town attorney for collection, fifty percent (50%) of the unpaid charges for such costs incurred by the town shall be added to the principal and interest for the attorney's services in making such collections and retained by him/her. (Ord. #92-3, March 1994)

**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, powers, duties, etc.
- 14-103. Additional powers.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the governing body selected by the governing body; the other five (5) 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 five (5) members appointed by the mayor shall serve for three (3) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the governing body shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (Ord. #82-9, \_\_\_\_\_)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1979 Code, § 11-102)

**14-103. Additional powers.** Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1979 Code, § 11-103)

## CHAPTER 2

### ZONING ORDINANCE

#### SECTION

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the Town of Caryville shall be governed by Ordinance #93-3, titled "Zoning Ordinance, Caryville, Tennessee," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance #93-3, and any amendments thereto, are included in this municipal code as Appendix 1.

Amendments to the zoning map are of record in the office of the city recorder.

**TITLE 15****MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>****CHAPTER**

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

**CHAPTER 1****MISCELLANEOUS<sup>2</sup>****SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, 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.

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 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.
- 15-122. Bicycle riders, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Use of all-terrain vehicles in restricted areas.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1979 Code, § 9-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1979 Code, § 9-106)

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1979 Code, § 9-107)

**15-104. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1979 Code, § 9-109)

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

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

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

(c) Upon a roadway designated and signposted by the municipality 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. (1979 Code, § 9-110)

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

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1979 Code, § 9-111)

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1979 Code, § 9-112)

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

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1979 Code, § 9-113)

**15-109. General requirements for traffic-control signs, etc.** All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Transportation, Federal Highway administration and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1979 Code, § 9-114)

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<sup>1</sup>Municipal code references

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

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1979 Code, § 9-115)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1979 Code, § 9-116)

**15-112. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1979 Code, § 9-117)

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1979 Code, § 9-118)

**15-114. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1979 Code, § 9-120)

**15-115. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1979 Code, § 9-121)

**15-116. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1979 Code, § 9-122)

**15-117. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) 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. (1979 Code, § 9-123)

**15-118. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1979 Code, § 9-124)

**15-119. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1979 Code, § 9-125)

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

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

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

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and

unobstructed to enable him to make the movement in safety. (1979 Code, § 9-126)

**15-121. Damaging pavements.** No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1979 Code, § 9-119)

**15-122. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

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

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1979 Code, § 9-127)

**15-123. 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 Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

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

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

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

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision therefore, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the Town of Caryville Municipal Code of Ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (Ord. #2002-03, Aug. 2002)

**15-124. Use of all-terrain vehicles in restricted areas.** (1) For the purpose of this section, all-terrain vehicles are ATV, UTV, dirt bikes and similar

type vehicles determined to be suitable and appropriate for safe operation on the streets of the Town of Caryville, Tennessee and all-terrain vehicles being further defined by Tennessee Code Annotated.

(2) The operation of any such vehicle shall be subject to the following conditions or restrictions:

(a) Operators shall be sixteen (16) or older and have a valid driver's license or accompanied by an adult.

(b) The riding times are during daylight hours, which include the thirty (30) minutes before dawn and the thirty (30) minutes after dusk.

(c) Riders must stay on designated and posted roads.

(d) Must carry liability insurance and be able to provide proof if requested.

(e) All riders must wear a protective helmet of a type approved by Tennessee Department of Transportation.

(f) Riders must lawfully obey all rules of the road applicable to other motor vehicles.

(g) Any such vehicle operated within the city shall be operated in a safe manner.

(h) Regular safety checkpoints will be conducted to ensure that rides are following procedures.

(i) Subject to any and all applicable laws as required and established by the State of Tennessee

(j) Any violation of the state laws and the rules listed here may result in loss of privileges to operate vehicle on the specified paved road.

(3) The above described streets and roadways within the Town of Caryville are hereby designated as open to all-terrain vehicle use.

(4) Violators of the provisions of this section, which are not a violation of Tennessee Code Annotated, § 55-8-185, shall be punishable by a civil penalty of no more than fifty dollars (\$50.00) and/or loss of privileges. (as added by Ord. #2017-02, May 2017 **Ch3\_1-9-19**)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1979 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1979 Code, § 9-103)

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<sup>1</sup>Municipal code reference

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

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1979 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1979 Code, § 9-105)



## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1979 Code, § 9-201)

**15-302. At intersections.** It shall be unlawful for any person to 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. (1979 Code, § 9-202)

**15-303. In school zones.** Generally, pursuant to Tennessee Code Annotated, § 55-8-153, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the governing body has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1979 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 municipality. (1979 Code, § 9-204)

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup> (1979 Code, § 9-301)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1979 Code, § 9-302)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1979 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1979 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1979 Code, § 9-305)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

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

**15-501. Upon approach of authorized emergency vehicles.**<sup>1</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1979 Code, § 9-401)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1979 Code, § 9-402)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1979 Code, § 9-403)

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<sup>1</sup>Municipal code reference

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

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

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1979 Code, § 9-404)

**15-505. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1979 Code, § 9-405)

**15-506. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1979 Code, § 9-406)

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

- (1) Green alone, or "Go":
  - (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
  - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
  - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
  - (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.
- (3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1979 Code, § 9-407)

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

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1979 Code, § 9-408)

**15-509. At pedestrian control signals.** Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, 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. (1979 Code, § 9-409)

**15-510. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>1</sup> except in an emergency. (1979 Code, § 9-410)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.

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

Except as hereinafter provided, every vehicle parked upon a street within this 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 municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1979 Code, § 9-501)

**15-602. Angle parking.** On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1979 Code, § 9-502)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1979 Code, § 9-503)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or municipality, 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 municipality.
- (1979 Code, § 9-504)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1979 Code, § 9-505)

**15-606. Regulation by parking meters.** In the absence of an official sign to the contrary which has been installed by the municipality, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the governing body, parking shall be regulated by parking meters where the same have been installed by the municipality. The presumption shall be that all installed parking meters were lawfully installed by the municipality. (1979 Code, § 9-506)

**15-607. Lawful parking in parking meter spaces.** 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. (1979 Code, § 9-507)



**15-608. Unlawful parking in parking meter spaces.** 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. (1979 Code, § 9-508)

**15-609. Unlawful to occupy more than one parking meter space.** 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. (1979 Code, § 9-509)

**15-610. Unlawful to deface or tamper with meters.** It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1979 Code, § 9-510)

**15-611. Unlawful to deposit slugs in meters.** 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. (1979 Code, § 9-511)

**15-612. Presumption with respect to illegal parking.** 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. (1979 Code, § 9-512)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

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

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1979 Code, § 9-601)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1979 Code, § 9-602)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation.

If the offense is a parking meter parking 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

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

(\$3.00). For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be three dollars (\$3.00) within ten (10) days and five dollars (\$5.00) thereafter. (1979 Code, § 9-603)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1979 Code, § 9-604)

**15-705. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1979 Code, § 9-605)

**15-706. Deposit of driver's license in lieu of bail.** 1. Pursuant to Tennessee Code Annotated, § 55-50-801, whenever any person lawfully possessed of a chauffeurs or operators license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any municipal ordinance regulating traffic, except driving under the influence of an intoxicant or narcotic drug or leaving the scene of an accident, said person shall have the option of depositing his chauffeurs or operators license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court in answer to any such charge before said court.

2. All city officers and employees shall comply fully with the requirements of Tennessee Code Annotated, § 55-50-801, et seq., and any implementing orders of the Department of Safety, State of Tennessee. (Ord. #81-\_\_\_\_, March 1981)

**TITLE 16****STREETS AND SIDEWALKS, ETC<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

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

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

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1979 Code, § 12-101)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1979 Code, § 12-102)

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on

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<sup>1</sup>Municipal 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. (1979 Code, § 12-103)

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>1</sup> (1979 Code, § 12-104)

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the governing body after a finding that no hazard will be created by such banner or sign. (1979 Code, § 12-105)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1979 Code, § 12-106)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1979 Code, § 12-107)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1979 Code, § 12-108)

**16-109. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1979 Code, § 12-109)

**16-110. Parades, etc., regulated.** It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first

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<sup>1</sup>Municipal code reference  
Building code: title 12, chapter 1.

securing a permit from the recorder. No permit shall be issued by the recorder 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. (1979 Code, § 12-110)

**16-111. Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law; nor shall he make such crossing at a speed in excess of twenty (25) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1979 Code, § 12-111)

**16-112. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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. (1979 Code, § 12-112)

**16-113. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1979 Code, § 12-113)

## CHAPTER 2

### EXCAVATIONS AND CUTS

#### SECTION

- 16-201. Prior permit required—exception.
- 16-202. Applications for permit.
- 16-203. Approval of application and issuance of permits.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Insurance.
- 16-207. Time limits.
- 16-208. Supervision.
- 16-209. Driveway curb cuts.
- 16-210. Prosecution and penalty for violation.

**16-201. Prior permit required—exception.** It shall be unlawful for any person, agency, firm, partnership, association, corporation, utility or other entity, whether public or private, to make any cut or excavation in or upon a public street, alley, sidewalk or other public way or to tunnel under any public street, alley, sidewalk or other public way without having first obtained an excavation permit pursuant to § 16-202 of this chapter; provided, however, that the requirement of this section shall not be applicable:

(1) To cuts, excavations or tunnelling necessary to the repair of existing pipes, lines, or other underground facilities in situations of such emergency that the work must proceed immediately; and

(2) By reason of the nature of such emergency it is not reasonable or practicable to obtain a permit before the work is commenced. (Ord. #98-1, March 1998)

**16-202. Applications for permit.** (1) All applications for an excavation permit as required by this chapter shall be made to the city recorder on forms furnished by the city recorder and shall be accompanied by a permit fee of twenty-five (\$25.00) dollars. Each such application shall state and set forth therein the following:

(a) The location at which the cut, excavation or tunnel is to be made;

(b) The purpose for which the cut, excavation or tunnel is to be made;

(c) A narrative description and drawing illustrative of the size, width, length, depth, direction, angle, attitude and other specifications of the proposed cut, excavation or tunnel in relation to both the surface and sub-surface of the public street, alley, sidewalk or other public way upon, in or under which it is to be made;

(d) The date and approximate time that the work for which the application is made shall commence and the date upon which such work will be completed;

(e) The complete name and address of the person, agency, firm, partnership, association, corporation, utility or other entity who shall do the actual work;

(f) The complete name and address of the person, agency, firm, partnership, association, corporation, utility, or other entity for whom the work is to be done;

(g) A statement by applicant of the estimated cost of restoring the work site to the state of its condition as existing immediately before the commencement of any cut, excavation or tunnelling operation for which the application is made;

(h) An agreement signed by the applicant or, as is appropriate, by a duly authorized representative of the applicant, binding the applicant to comply fully with the requirements of this chapter and with the terms and conditions to be set forth in the excavation permit issued upon such application.

(2) In situations of emergence, as provided for in subsections (1) and (2) of § 16-201 of this chapter where it is not reasonable or practicable to obtain a permit before the commencement of a cut, excavation or tunnel in, upon or under a public street, alley, sidewalk or other public way, the person, agency, firm, partnership, association, corporation, utility or other entity by whom any such emergency cut, excavation or tunnelling is commenced, shall thereafter, on the first regular business day after the commencement of such emergency cut, excavation or tunnelling, submit to the city recorder an application for the issuance of an excavation permit in the same form as that provided in this chapter for permit applications made before the commencement of cuts, excavations or tunnelling in non-emergency situations and such application, being so submitted, together with the twenty-five dollars (\$25.00) permit fee shall be deemed to have been submitted as of the date and time that the emergency cut, excavation or tunnelling work was commenced. The new installation of a utility service connection or the new installation or mere extension of existing pipes, lines or other underground facilities shall in no event be considered to be a situation of emergency under the provisions of this chapter. (Ord. #98-1, March 1998)

**16-203. Approval of application and issuance of permit.** (1) All applications for an excavation permit under this chapter shall be referred by the city recorder to the commissioner of public works or his authorized designee. The commissioner of public works or his authorized designee shall:

(a) Examine the application;

(b) Examine the site of the proposed cut, excavation or tunnelling;



(c) Estimate of the cost of restoring the work site in accordance with the requirements of this chapter; and

(d) Approve or reject the application, in writing.

(2) The commissioner of public works or his authorized designee shall have twenty-four (24) hours from the time of the filing of such application with the city recorder, either to approve or reject the application.

(3) If the application is approved by the commissioner of public works or his authorized designee, the city recorder will issue the requested permit upon the applicant posting the security deposit and performance bond as required pursuant to § 16-204 of this chapter. (Ord. #98-1, March 1998)

**16-204. Security deposit, performance bond and restoration of work site.** (1) No excavation permit will be issued by the city recorder until the applicant therefor shall have deposited with the city recorder a cash sum sufficient to cover the costs of restoring the work-site to the state of its existence immediately before the commencement of any cut, excavation or tunnelling operation for which the application is made in the amount of such costs as estimated by the commissioner of public works or his authorized designee pursuant to § 16-203(1)(c) of this chapter. In no event, however, shall the amount of such cash deposit be

(a) Less than one hundred dollars (\$100.00) for cuts, excavations or tunnelling operations in, upon or under a public street, alley, sidewalk or other public way which is not paved;

(b) Less than two hundred dollars (\$200.00) for cuts, excavations or tunnelling operations in, upon or under a public street, alley, sidewalk or other public way the surface of which is an asphalt pavement or seal;

(c) Less than two hundred fifty dollars (\$250.00) for cuts, excavations or tunnelling operations in, upon or under a public street, alley, sidewalk or other public way the surface of which is a concrete pavement.

(2) Immediately following the completion of the work for which the excavation permit is issued, the applicant to whom it was issued, at such applicant's sole costs and expense, shall restore the work-site to the state of its existence immediately before the commencement of such work. Restoration of the work-site shall mean and include the backfilling and compaction of any cut or excavation with appropriate materials as are required and set forth in the written approval of the permit application submitted by the commissioner of public worker or his authorized designee pursuant to § 16-203(1)(d) of this chapter and the resurfacing and compaction of any public street, alley, sidewalk or other public way affected by the cut, excavation or tunneling materials of the same kind and quality as that which covered the surface of such public street, alley, sidewalk or other public way at the time of the commencement of the work for which the application was issued, in a manner such that no noticeable hump,

depression or roughness not characteristic of the worksite prior to the commencement of the work shall remain or thereafter occur in or upon the surface of the street, alley, sidewalk or other public way directly affected by such cut, excavation or tunnelling or within fifteen (15') feet of either side thereof for a period of eight (8) months following the completion of the restoration, during which time the applicant to whom the excavation permit was issued shall be and remain responsible and obligated, at the sole costs and expense of applicant, to make all such other and further repairs necessary to the elimination of any such humps, depressions, or roughness that may occur in or upon the public street, alley, sidewalk or other public way directly affected by any such cut, excavation or tunnelling and is a result thereof.

(3) The cash deposit required of the applicant to whom an excavation permit is issued pursuant to subsection (1) of this section shall be held by the city recorder as security for the applicant's satisfactory performance of the restoration work required under subsection (2) of this section for a period of eight (8) months.

(4) To the extent that the estimated cost of restoring the work site shall exceed the minimum cash security deposit requirements provided under subsection(1) of this section, the city recorder may accept from the applicant, in lieu of a cash deposit for such excess estimated costs, a surety bond conditioned upon the applicant's restoration of the work site as is required under and pursuant to subsection (2) of this section. In no event, however, shall the minimum cash deposit requirement be waived or a surety bond be accepted in lieu thereof, and such minimum cash deposit shall be required in every circumstance.

(5) After the lapse of eight (8) months and upon applicant's satisfactory completion of the required work site restoration as such shall be determined and approved in writing by the commissioner of public works or his authorized designee, the city recorder will refund the cash security deposit to applicant and, as the case may be, shall release the sureties on applicant's bond.

(6) If applicant shall not satisfactorily complete the required work site restoration to the satisfaction of the commissioner of public works or his authorized designee, or if the applicant shall delay unreasonably in completing the required work site restoration, the municipality may undertake to effect the completion of such restoration by or through such other means, persons, firms or entities as the board of mayor and aldermen shall deem appropriate under the circumstances and the city recorder shall deduct from the applicant's cash security deposit, the costs incurred by the municipality in so doing and shall charge the balance of any such remaining cost of restoration, if any, to the applicant and to the sureties on applicant's bond for the recovery of which by the municipality against the applicant and the sureties on applicant's bond an action will lie either in the General Sessions, Circuit or Chancery Court of Campbell County, Tennessee.

(7) It is contemplated by this chapter that restoration of the work site will proceed, without delay or interruption, immediately following the completion of work for which the excavation permit was issued and that any delay in the progress of such restoration thereafter, except for inclement weather or other such cause which shall be approved and permitted in writing by the commissioner of public works or his duly authorized designee, shall be deemed to be an unreasonable delay. (Ord. #98-1, March 1998)

**16-205. Manner of excavating-barricades and lights-temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1979 Code, § 12-205)

**16-206. 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. (1979 Code, § 12-207)

**16-207. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the municipality if the municipality 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. (1979 Code, § 12-208)

**16-208. Supervision.** 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 municipality 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. (1979 Code, § 12-209)

**16-209. Driveway curb cuts.** 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. Driveway aprons shall not extend out into the street. (1979 Code, § 12-210)

**16-210. Prosecution and penalty for violation.** Any person, agency, firm partnership, association, corporation, utility or other entity guilty of a violation of this chapter or of violating the terms and conditions of an excavation permit issued pursuant hereto shall, on conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than fifty dollars (\$50.00) for each such violation together with the costs of prosecution, and each day of the continuance of a violation shall be held to constitute a separate violation for which a separate fine shall be imposed. Prosecutions for the violation of this chapter shall be brought before the Caryville City Court by citation issued by the city recorder or by the city judge upon the oath or affirmation of the commissioner of public works or upon the oath or affirmation of the commissioner's duly authorized designee, whose designation as such shall be approved by resolution of the board of mayor and aldermen. (Ord. #98-1, March 1998)

**TITLE 17****REFUSE AND TRASH DISPOSAL**<sup>1</sup>**CHAPTER**

1. REFUSE.
2. RESIDENTIAL GARBAGE SERVICES USER FEES.

**CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Placing unseparated garbage into containers designated for recyclable materials prohibited.

**17-101. Refuse defined.** Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1979 Code, § 8-201)

**17-102. Premises to be kept clean.** 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 in this chapter. (1979 Code, § 8-202)

**17-103. Storage.** Each owner, occupant, or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the municipality handles mechanically. Furthermore, except for containers which the municipality handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1979 Code, § 8-203)

**17-104. Location of containers.** Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there be no curb, at such times as shall be scheduled by the municipality for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1979 Code, § 8-204)

**17-105. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1979 Code, § 8-205)

**17-106. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. (1979 Code, § 8-206)

**17-107. Collection vehicles.** The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1979 Code, § 8-207)

**17-108. Disposal.** The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for

refuse disposal by the governing body is expressly prohibited. (1979 Code, § 8-208)

**17-109. Placing unseparated garbage in containers designated for recyclable materials prohibited.** It shall be unlawful fo place unseparated household garbage into any container designated for the sole purpose of receiving separated recyclable materials.

Punishment, upon conviction shall be a five hundred (\$500) dollar fine plus court cost and or twenty (20) hours of community service. (Ord. #95-2, May 1995)

## CHAPTER 2

### **RESIDENTIAL GARBAGE SERVICES USER FEES**

#### **SECTION**

17-201. Fees established, definition, collection rules and regulations.

17-202. Penalty for non payment.

#### **17-201. Fees established, definition, collection rules and regulations.**

(1) There is hereby established a residential garbage service user fee to be charged to and collected from each household in the City of Caryville, Tennessee on a monthly basis.

(2) Household is defined, for the purpose of this section, as all residential living units within the City of Caryville, whether occupied or not, to which garbage and refuse pick up service is furnished by the City of Caryville, and available for use, whether utilized or not, and for which pick up service is not otherwise required to be provided as a commercial unit (or apartment development in excess of six (6) units).

(3) The residential garbage service user fee is established at the rate of twelve dollars (\$12.00) per month per residential household or apartment unit. The fee will not exceed twelve dollars (\$12.00) per month.

(4) The city recorder is authorized and directed to institute collection mechanisms, rules, and regulations and means as shall be deemed by the city recorder to be efficient, appropriate and expedient to effect collections.

(5) In the event a real property tax should be enacted, this ordinance will be abolished. (as added by Ord. #2005-05, Jan. 2006, and amended by Ord. #2009-02, June 2009)

**17-202. Penalty for non payment.** (1) It is unlawful to refuse or neglect to pay the monthly residential garbage service user fee when billed. Each user shall be given ten (10) days from the billing date to make payment to the city.

(2) Each thirty (30) day period that the service fee remains unpaid shall subject the owner or the tenant, whichever is the user, to a separate fifty dollar (\$50.00) civil fine for nonpayment. (as added by Ord. #2005-05, Jan. 2006)



## **TITLE 18**

### **WATER AND SEWERS<sup>1</sup>**

#### **CHAPTER**

1. GENERAL WASTEWATER REGULATIONS.
2. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

#### **CHAPTER 1**

### **GENERAL WASTEWATER REGULATIONS<sup>2</sup>**

#### **SECTION**

- 18-101. Purpose and policy.
- 18-102. Administrative.
- 18-103. Definitions.
- 18-104. Proper waste disposal required.
- 18-105. Private domestic wastewater disposal.
- 18-106. Connection to public sewers.
- 18-107. Septic tank effluent pump or grinder pump wastewater systems.
- 18-108. Regulation of holding tank waste disposal or trucked in waste.
- 18-109. Discharge regulations.
- 18-110. Enforcement and abatement.
- 18-111--18-115. [Deleted.]

**18-101. Purpose and policy.** This chapter sets forth uniform requirements for users of the Caryville-Jacksboro Utilities Commission of Caryville, Tennessee, wastewater treatment system and enables the Caryville-Jacksboro Utilities Commission to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.  
Refuse disposal: title 17.

<sup>2</sup>Municipal code reference

Plumbing code: title 12, chapter 2.

(3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) (missing text?) facility;

(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and

(7) To enable the town to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Caryville must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the town who are, by implied contract or written agreement with the town, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 2 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 2 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1979 Code, § 8-301, as replaced by Ord. #2010-01, March 2010)

**18-102. Administrative.** Except as otherwise provided herein, the local administrative officer of the Caryville-Jacksboro Utilities Commission shall administer, implement, and enforce the provisions of this chapter. (1979 Code, § 8-302, as replaced by Ord. #2010-01, March 2010)

**18-103. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The Administrator of the United States Environmental Protection Agency.

(2) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

- (4) "Authorized" or "duly authorized" representative of industrial user:
  - (a) If the user is a corporation:
    - (i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or
    - (ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - (c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.
  - (d) The individual described in subsections (a) through (c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.
- (5) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-109 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees centigrade (20°C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City/town." The Caryville-Jacksboro Utilities Commission representing the Town of Jacksboro, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the town's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the town has an approved pretreatment program under the provisions of 40 CFR 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the town under either an express or implied contract requiring payment to the town for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Director" The Director of the Caryville, Jacksboro Utility Commission.

(20) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(21) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(22) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(23) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(24) "Grease interceptor." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or less and is generally located inside the building.

(25) "Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or more and is located outside the building.

(26) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(27) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(28) "Indirect discharge." The introduction of pollutants into the WWF from any nondomestic source.

(29) "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 (33 U.S.C. §1342).

(30) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(31) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(32) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or

undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(33) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(34) "Local administrative officer." The Director of Caryville-Jacksboro Utility Commission.

(35) "Local hearing authority." The Board of Commissioners of the Caryville-Jacksboro Utilities Commission to enforce the provisions of this chapter and conduct hearings pursuant to § 18-205.

(36) "National categorical pretreatment standard" or "pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(37) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) System.

(38) "New source." (a) 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(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(39) "NPDES (National Pollution Discharge Elimination System)." 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 Clean Water Act as amended.

(40) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(41) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(42) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(43) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(44) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(45) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological

processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(46) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(47) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(48) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(49) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number (63), below.

(50) "Shall" is mandatory; "may" is permissive.

(51) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(52) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8. (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month



period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under section 205(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(53) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(54) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(55) "State." The State of Tennessee.

(56) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(57) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(58) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(59) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(60) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(61) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(62) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability. Tennessee Code Annotated, § 68-221-201.

(63) "Wastewater." The liquid and water-carried 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 WWF.

(64) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(65) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(66) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1979 Code, § 8-303, as replaced by Ord. #2010-01, March 2010)

**18-104. Proper waste disposal required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner

on public or private property within the service area of the town, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or town or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-105 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1979 Code, § 8-304, as replaced by Ord. #2010-01, March 2010)

**18-105. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-104(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the town to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage

disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the town and the county health department. (1979 Code, § 8-305, as replaced by Ord. #2010-01, March 2010)

**18-106. Connection to public sewers.** (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the Caryville-Jacksboro Utilities Commission. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the director. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the Caryville-Jacksboro Utilities Commission. Industrial user discharge permit fees may also apply. The receipt by the Caryville-Jacksboro Utilities Commission of a prospective customer's application for connection shall not obligate the Caryville-Jacksboro Utilities Commission to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the Caryville-Jacksboro Utilities Commission's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the Caryville-Jacksboro Utilities Commission to the applicant for such service.

(b) Users shall notify the Caryville-Jacksboro Utilities Commission of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The Caryville-Jacksboro Utilities Commission may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The Caryville-Jacksboro Utilities Commission shall make all connections to the public sewer upon the property owner first submitting a connection application to the Caryville-Jacksboro Utilities Commission.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the Caryville-Jacksboro Utilities Commission at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The Caryville-Jacksboro Utilities Commission will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the Caryville-Jacksboro Utilities Commission from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to

the rear building and the whole considered as one building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system--four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: four inch (4") sewers--one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the Caryville-Jacksboro Utilities Commission and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall

be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-107 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Caryville-Jacksboro Utilities Commission.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections. (i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the Caryville-Jacksboro Utilities Commission. Owners failing to maintain or repair building sewers or who allow stormwater or ground

water to enter the sanitary sewer may face enforcement action by the director up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the director or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works.<sup>1</sup> Contractors must provide the director or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The director or manager must give written approval to the contractor to acknowledge transfer of ownership to the Caryville-Jacksboro Utilities Commission. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1979 Code, § 8-306, as replaced by Ord. #2010-01, March 2010)

**18-107. Septic tank effluent pump or grinder pump wastewater systems**. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the Caryville-Jacksboro Utilities Commission.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the town.

(b) Pumps must be approved by the town and shall be maintained by the town.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the Caryville-Jacksboro Utilities Commission sewer only after inspection and approval of the town.

(4) Ownership and easements. Homeowners or developers shall provide the Caryville-Jacksboro Utilities Commission with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the Caryville-Jacksboro Utilities Commission to the STEP and

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<sup>1</sup>Located at: <http://www.state.tn.us/environment/wpc/publications/>



GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access to manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the director.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system:

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the town. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The Caryville-Jacksboro Utilities Commission shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (1979 Code, § 8-307, as replaced by Ord. #2010-01, March 2010)

**18-108. Regulation of holding tank waste disposal or trucked in waste.** (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the Caryville-Jacksboro Utilities Commission to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the Caryville-Jacksboro Utilities Commission to be set as specified in § 18-207 of this title. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly

painted in three-inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The director shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The director may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Caryville-Jacksboro Utilities Commission.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1979 Code, § 8-308, as replaced by Ord. #2010-01, March 2010)

**18-109. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-110 or 18-205. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols,

ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the Caryville-Jacksboro Utilities Commission, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade (40° C) (one hundred four degrees Fahrenheit (104° F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation

process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 2 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria unless specifically allowed by their discharge permit according to chapter 2 of this title: Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A Plant Protection Criteria	
Parameter	Maximum Concentration (mg/l)
Arsenic	-----
Benzene	0.0130
Cadmium	0.0050
Carbon Tetrachloride	0.0050
Chloroform	0.0050
Chromium (total)	0.3130
Copper	0.1250
Cyanide	0.0760
Ethylbenzene	0.0400
Lead	0.0310
Mercury	0.0040
Methylene chloride	0.0500
Molybdenum	-----
Naphthalene	0.0010
Nickel	0.1460
Phenol	0.0500
Selenium	-----
Silver	0.0180
Tetrachloroethylene	0.0050
Toluene	0.2140
Total Phthalate	0.1690
Trichlorethylene	0.0050
1,1,1-Trichloroethane	0.2500
1,2 Transdichloroethylene	0.0015
Zinc	0.2610

(4) Fats, oils and grease traps and interceptors. (a) Fats, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and

sand interceptors shall be installed when, in the opinion of the director, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the director determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the director the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the director the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the director may be asked to change the cleaning frequency or to increase the size of the

interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable Caryville-Jacksboro Utilities Commission guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the Caryville-Jacksboro Utilities Commission is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the Caryville-Jacksboro Utilities Commission. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the Caryville-Jacksboro Utilities Commission has under this chapter, or state or federal law. The Caryville-Jacksboro Utilities Commission retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the Caryville-Jacksboro Utilities Commission is prohibited.

(g) The director may use industrial wastewater discharge permits under § 18-202 to regulate the discharge of fat, oil and grease. (1979 Code, § 8-309, as replaced by Ord. #2010-01, March 2010)

**18-110. Enforcement and abatement.** Violators of these Wastewater Regulations may be cited to chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the Caryville-Jacksboro Utilities Commission may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 2. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or

correct the violation. The Caryville-Jacksboro Utilities Commission may take any or all the following remedies:

(1) Cite the user to chancery court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the director has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the director may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1979 Code, § 8-310, as replaced by Ord. #2010-01, March 2010)

**18-111–115. Deleted.** (1979 Code, §§ 8-311--8-315, as deleted by Ord. #2010-01, March 2010)



## CHAPTER 2

### INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

#### SECTION

- 18-201. Industrial pretreatment
- 18-202. Discharge permits.
- 18-203. Industrial user additional requirements.
- 18-204. Reporting requirements.
- 18-205. Enforcement response plan.
- 18-206. Enforcement response guide table.
- 18-207. Fees and billing.
- 18-208. Validity.
- 18-209--18-210. [Deleted.]

**18-201. Industrial pretreatment.** In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-109 of this title.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-109, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-205.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table B or other applicable state and federal pretreatment rules which may take effect after the passage of the ordinance comprising this chapter.

Table B -- Local Limits		
Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
Arsenic	0.0600	0.0120
Benzene	-----	-----
Cadmium	0.0040	0.0080
Carbon Tetrachloride	-----	-----
Chloroform	-----	-----
Chromium (total)	4.0000	7.0000
Copper	0.1600	0.3200
Cyanide	0.0300	0.0600
Ethylbenzene	-----	-----
Lead	0.1000	0.2000
Mercury	0.0250	0.0500
Methylene chloride	-----	-----
Molybdenum	-----	-----
Napthalene	0.0010	0.0020
Nickel	0.1500	0.3000
Phenol	1.0000	2.0000
Selenium	0.0100	0.0200
Silver	0.0120	0.0240
Tetrachloroethylene	-----	-----
Toluene	-----	-----
Total Phthalate	-----	-----
Trichlorethylene	-----	-----
1,1,1-Trichloroethane	-----	-----
1,2 Transdichloroethylene	-----	-----
Zinc	0.3000	0.6000
*Based on 24-hour flow proportional composite samples unless specified otherwise.		

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

Table C - Surcharge and Maximum Limits		
Parameter	Surcharge Limit	Maximum Concentration
Total Kjeldahl Nitrogen (TKN)	-----	-----
Oil and Grease	40 mg/l	80 mg/l
MBAS	-----	-----
BOD	300	600
COD	-----	-----
Suspended Solids	300	600

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the Caryville-Jacksboro Utilities Commission the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The director will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(9) Combined waste stream formula. When wastewater subject to a categorical pretreatment standard is mixed with a wastewater not regulated by the same standard the director shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5). (Ord. #34, Sept. 1985, as replaced by Ord. #2010-01, March 2010)

**18-202. Discharge permits.** (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the director for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the Caryville-Jacksboro Utilities Commission sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the director, the building sewer is installed in accordance with § 18-106 of this title and an inspection has been performed by the director or his representative.

The receipt by the Caryville-Jacksboro Utilities Commission of a prospective customer's application for connection shall not obligate the Caryville-Jacksboro Utilities Commission to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the Caryville-Jacksboro Utilities Commission's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the Caryville-Jacksboro Utilities Commission to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the director to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the Caryville-Jacksboro Utilities Commission and shall include, but not be limited to the following information: name, address, and

SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-109 and 18-201 discharge variations--daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Caryville-Jacksboro Utilities Commission under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The Caryville-Jacksboro Utilities Commission will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Caryville-Jacksboro Utilities Commission may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the Caryville-Jacksboro Utilities Commission of a prospective customer's application for wastewater discharge permit shall not obligate the Caryville-Jacksboro Utilities to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the Caryville-Jacksboro Utilities Commission's

rules and regulations and general practice, the application shall be rejected and there shall be no liability of the Caryville-Jacksboro Utilities Commission to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Caryville-Jacksboro Utilities Commission, and affording Caryville-Jacksboro Utilities Commission access thereto;

(F) Requirements for notification of the Caryville-Jacksboro Utilities Commission sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the Caryville-Jacksboro Utilities Commission to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written

approval of the Caryville-Jacksboro Utilities Commission. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violations of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the Caryville-Jacksboro Utilities Commission's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (Ord. #34, Sept. 1985, as amended by Ord. #17, Dec. 1987, and replaced by Ord. #2010-01, March 2010)



**18-203. Industrial user additional requirements.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator 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.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper

operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The Caryville-Jacksboro Utilities Commission may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Caryville-Jacksboro Utilities Commission or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The Caryville-Jacksboro Utilities Commission will utilize qualified Caryville-Jacksboro Utilities Commission personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Caryville-Jacksboro Utilities Commission, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the Caryville-Jacksboro Utilities Commission shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Caryville-Jacksboro Utilities Commission employees and the Caryville-Jacksboro Utilities Commission shall indemnify the company against loss or damage to its property by Caryville-Jacksboro Utilities Commission employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to

prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence. Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call 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. (Ord. #34, Sept. 1985, as replaced by Ord. #2010-01, March 2010)

**18-204. Reporting requirements.** Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-205.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and

sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit

documentation as required by the director or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods;

(H) The director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (2) of this section.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with subsection (14) of this section and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection(1)(d) of this section:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule;

(d) In no event shall more than nine (9) months elapse between such progress reports to the director.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in subsections (1)(b)(iv) and (v) of this section. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the director submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this section.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order

at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-201 of this chapter.

(b) The director may issue an individual wastewater discharge permit under § 18-202 of this chapter or modify an existing wastewater discharge permit under § 18-202 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the director or coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the director or coordinator immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the director as the director may require users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the Caryville-Jacksboro Utilities Commission performs sampling at the user's facility at least once a month, or if the Caryville-Jacksboro Utilities Commission performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the Caryville-Jacksboro Utilities Commission receives the results of this sampling, or if the Caryville-Jacksboro Utilities Commission has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (5) of this section. The notification requirement in this section does not apply to pollutants already reported by users subject to



categorical pretreatment standards under the self-monitoring requirements of subsections (1), (3), and (4) of this § 18-204.

(b) Dischargers are exempt from the requirements of subsection (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Caryville-Jacksboro Utility Commission Director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(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 hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this title, a permit issued there under, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the director or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the, reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless

time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the Caryville-Jacksboro Utilities Commission, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Caryville-Jacksboro Utilities Commission, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-202. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or

the Caryville-Jacksboro Utilities Commission, or where the user has been specifically notified of a longer retention period by the director.

(14) Certification statements; signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

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.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements.

(Ord. #34, Sept. 1985, as replaced by Ord. #2010-01, March 2010)

**18-205. Enforcement and abatement plan.** Under the authority of Tennessee Code Annotated, § 69-3-123, et seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Jacksboro Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-205(2), no later than thirty (30) days after the date the order

is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the Caryville-Jacksboro Utilities Commission or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the Caryville-Jacksboro Utilities Commission to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a

continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the Caryville-Jacksboro Utilities Commission in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this

section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair 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 case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Campbell County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall

be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed under § 18-205(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and 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 the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

- (C) Violates the terms or conditions of a permit;
  - (D) Fails to complete a filing requirement;
  - (E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;
  - (F) Fails to pay user or cost recovery charges; or
  - (G) Violates a final determination or order of the local hearing authority or the local administrative officer.
- (ii) Any administrative civil penalty must be assessed in the following manner:
- (A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;
  - (B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;
  - (C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;
  - (D) In assessing the civil penalty the local administrative officer may consider the following factors:
    - (1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
    - (2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;
    - (3) Cause of the discharge or violation;



(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; or

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the town resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-202(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permit, or orders issued hereunder, or for any of the following conditions:

- (a) Violation of wastewater discharge permit conditions.
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-109 of this title.
- (f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination director.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appointed for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance. For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV.).

(b) "Significant non-compliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of

all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-205(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table.<sup>1</sup> (Appendix A).

(9) Public notice of the significant violations. The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (C), (D) or (H) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-109 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance; or

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<sup>1</sup>The Enforcement Response Plan Guide Table is of record in the recorder's office.

(g) Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5. s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (Ord. #34, Sept. 1985, as replaced by Ord. #2010-01, March 2010)

**18-206. Enforcement response guide table.**<sup>1</sup> (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in the Enforcement Response Plan of 1985 to impose sanctions or penalties for the violation of this chapter. (Ord. #34, Sept. 1985)

**18-207. Fees and billing.** (1) Purpose. It is the purpose of the is chapter to provide for the equitable recovery of costs from users of the Caryville-Jacksboro Utilities Commission's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see Table C);
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the Caryville-Jacksboro Utilities Commission

may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-202 of this chapter.

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<sup>1</sup>The Enforcement Response Guide Table is of record in the recorder's office.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the Caryville-Jacksboro Utilities Commission's sewer department at the time the application is filed.

(5) Sewer user charges.<sup>1</sup> The Caryville-Jacksboro Utilities Commission shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-207 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the Caryville-Jacksboro Utilities Commission for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table.<sup>2</sup> The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00--\$500.00
Category 3	\$500.00--\$1,000.00
Category 4	\$1,000.00--\$5,000.00
Category 5	\$5,000.00--\$10,000.00

(Ord. #34, Sept. 1985, as replaced by Ord. #2010-01, March 2010)

**18-208. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the town. (Ord. #34, Sept. 1985, as replaced by Ord. #2010-01, March 2010)

**18-209--18-210. [Deleted.]** (Ord. #34, Sept. 1985, as amended by Ord. #16, Dec. 1987, and Ord. #88-7, June 1988, and deleted by Ord. #2010-01, March 2010)

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<sup>1</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the recorder's office.

<sup>2</sup>The Enforcement Response Guide Table is of record in the recorder's office.

## CHAPTER 3

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Regulated.
- 18-303. Statement required.
- 18-304. Fire hydrant maintenance fee.
- 18-305. Violations.

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

(1) "Public water supply." The waterworks system furnishing water to the municipality for general use and which supply is recognized as the public water supply by the Tennessee Department of Public 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 ineffective check or back-pressure valves, or because of any other arrangement.

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

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which normally contains sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1979 Code, § 8-401, as renumbered by Ord. #2010-01, March 2010)

**18-302. Regulated.** It shall be unlawful for any person to cause a cross connection, auxiliary intake, by-pass, or interconnection to be made, or allow one

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

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, by-pass, or interconnection is at all times under the direct supervision of the superintendent of the water works of this municipality. (1979 Code, § 8-402, as renumbered by Ord. #2010-01, March 2010)

**18-303. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or insanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water works, a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Public Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the water works. (1979 Code, § 8-403, as renumbered by Ord. #2010-01, March 2010)

**18-304. Fire hydrant maintenance fee.** The town hereby requests and authorizes its water utilities provider, the Caryville-Jacksboro Utilities Commission, to provide the service of collecting the monthly fire protection, or fire hydrant maintenance fee from the owners of all properties situated within the corporate limits of the town, and owners of properties situated outside corporate limits but within the Caryville Fire Department service area who are water service customers of the said commission, by including in each such customer's monthly bill a charge for such hydrant fee, subject to the right of the said commission to deduct a fee of five percent (5%) of the total of all such collected fees for the service of making such collections and transmitting the amount collected to the town. (Ord. #2002-01, July 2002, as renumbered by Ord. #2010-01, March 2010)

**18-305. Violations.** Any person who now has cross connections, auxiliary intakes, by-passes, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with such provisions. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time to be allowed shall be designated by the superintendent of the water works. In addition to, or in lieu of any fines and penalties that may be judicially assessed for violations of this chapter, the superintendent of the water works shall discontinue the public water supply service at any premises upon which there is found to be a cross connection, auxiliary intake, by-pass, or interconnection,



and service shall not be restored until such cross connection, auxiliary intake, by-pass, or interconnection has been discontinued. (1979 Code, § 8-404, as renumbered by Ord. #2010-01, March 2010)

**TITLE 19**

**ELECTRICITY AND GAS<sup>1</sup>**

**[RESERVED FOR FUTURE USE]**

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<sup>1</sup>Municipal code reference  
Electrical code: title 12

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. FAIR HOUSING.
2. PUBLIC RECORDS POLICY.
3. CIVIL RIGHTS ACT OF 1964 COMPLIANCE MANUAL.
4. SHORT-TERM RENTAL POLICY.

**FAIR HOUSING****SECTION**

- 20-101. Policy.
- 20-102. Definitions.
- 20-103. Unlawful practice.
- 20-104. Discrimination in the sale or rental of housing.
- 20-105. Discrimination in the financing of housing.
- 20-106. Discrimination in the provision of brokerage services.
- 20-107. Exemption.
- 20-108. Administration.
- 20-109. Education and conciliation.
- 20-110. Enforcement.
- 20-111. Investigations; subpoenas; giving of evidence.
- 20-112. Enforcement by private persons.

**20-101. Policy.** It is the policy of the Town of Caryville to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #\_\_\_\_, Aug. 2000)

**20-102. Definitions.** 1. "Discriminatory housing practice" means an act that is unlawful under §§ 20-104, 20-105, or 20-106.

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

3. "Family" includes a single individual.

4. "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 judiciaries.

5. "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(Ord. #\_\_\_\_, Aug. 2000)

**20-103. Unlawful practice.** Subject to the provisions of subsection (2) and § 20-107, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-104 shall apply to:

- (1) All dwellings except as exempted by subsection (2).
- (2) Nothing in § 20-104 shall apply to:

- (a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period: Provided further that such bonafide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented

- i. Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

- 2. Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-104(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

- (b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

- (a) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

- (b) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence

in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (Ord. #\_\_\_\_, Aug. 2000)

**20-104. Discrimination in the sale or rental of housing.** As made applicable by § 20-103 and exempted by §§ 20-103(2) and 20-107, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bonafide offer, 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, familial status or disability.

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

(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, sex, national origin, familial status or disability or any intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or disability 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, sex, national origin, familial status or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (Ord. #\_\_\_\_, Aug. 2000)

**20-105. Discrimination in the financing of housing.** It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of

purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-103(2). (Ord. #\_\_\_\_, Aug. 2000)

**20-106. Discrimination in the provision of brokerage services.** It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or disability. (Ord. #\_\_\_\_, Aug. 2000)

**20-107. Exemption.** 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 a commercial purpose 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, sex, national origin, familial status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #\_\_\_\_, Aug. 2000)

**20-108. Administration.** (1) The authority and responsibility for administering this Act shall be in the Office of the Mayor of the Town of Caryville.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community, or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall rule or prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (Ord. #\_\_\_\_, Aug. 2000)

**20-109. Education and conciliation.** Immediately after the enactment of the ordinance comprising this chapter, the mayor shall commence such educational and conciliatory activities as will further the purpose of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. #\_\_\_\_, Aug. 2000)

**20-110. Enforcement.** (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Tennessee Human Rights Commission. Complaints shall be in writing and shall contain such information and be in such form as the Tennessee Human Rights Commission requires. Upon receipt of such a complaint, the Tennessee Human Rights Commission shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (3), the Tennessee Human Rights Commission shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Tennessee Human Rights Commission decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the Tennessee Human Rights Commission who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Tennessee Human Rights Commission, which shall be granted whenever it would be reasonable and fair

to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty (30) days after a complaint is filed with the Tennessee Human Rights Commission, the Tennessee Human Rights Commission has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Tennessee Human Rights Commission will assist in this filing.

(4) If the Tennessee Human Rights Commission has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(6) Whenever an action filed by an individual shall come to trial, the Tennessee Human Rights Commission shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #\_\_\_\_, March 1995)

**20-111. Investigations; subpoenas; giving of evidence.** (1) In conducting an investigation the Tennessee Human Rights Commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the Tennessee Human Rights Commission first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Tennessee Human Rights Commission may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Tennessee Human Rights Commission may administer oaths.

(2) Upon written application to the Tennessee Human Rights Commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Tennessee Human Rights Commission to the same extent and subject to the same limitations as subpoenas issued by the Tennessee Human Rights Commission himself. Subpoenas issued at the request of a respondent shall show on their face the



name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the Tennessee Human Rights Commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five (5) days after service of a subpoena upon any person, such person may petition the Tennessee Human Rights Commission to revoke or modify the subpoena. The Tennessee Human Rights Commission shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the Tennessee Human Rights Commission or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Tennessee Human Rights Commission shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Tennessee Human Rights Commission, shall make or cause to be made any false entry or statement or fact in any report, account, record, or other document submitted to the Tennessee Human Rights Commission pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both.

(7) The Tennessee Human Rights Commission's attorney shall conduct all litigation in which the Tennessee Human Rights Commission participates as a party or as amicus pursuant to this chapter. (Ord. #\_\_\_\_, Aug. 2000)

**20-112. Enforcement by private persons.** (1) The rights granted by §§ 20-103 through 20-106 may be enforced by civil action in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days (180) after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this

section or § 20-110(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status or disability in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so to participate; or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, national origin, familial status or disability in any of the activities, services, organizations or facilities, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both; and if bodily injury results, shall be fined not more than ten thousand dollars (\$10,000), or imprisoned not more than ten (10) years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. #\_\_\_\_, Aug. 2000)

## CHAPTER 2

### PUBLIC RECORDS POLICY

#### SECTION

20-201. Policy manual adopted.

**20-201. Policy manual adopted.** (1) The Public Records Policy Manual for the Town of Caryville, Tennessee shall be adopted in its entirety by reference.<sup>1</sup>

(2) The following statement shall be deemed as the Town of Caryville's Public Records policy statement: "It is the policy of the Town of Caryville for personnel of the Town of Caryville shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Town of Caryville, shall be protected as provided by current law." (as added by Ord. #2017-05, May 2017 ***Ch3\_1-9-19***)

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<sup>1</sup>A copy of the Public Records Policy Manual for the Town of Caryville is available for review in the recorder's office.

## CHAPTER 3

### CIVIL RIGHTS ACT OF 1964 COMPLIANCE MANUAL

#### SECTION

20-301. Compliance manual adopted.

**20-301. Compliance manual adopted.** The Title VI Compliance Manual for the Town of Caryville shall be adopted in its entirety by reference.<sup>1</sup>

(2) The following statement shall be deemed as the Town of Caryville's Title VI policy statement: "It is the policy of the Town of Caryville to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (as added by Ord. #2017-09, September 2017 ***Ch3\_1-9-19***)

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<sup>1</sup>A copy of the compliance manual regarding Title VI of the Civil Rights Act of 1964 is available for review in the recorder's office.

## CHAPTER 4

### **SHORT-TERM RENTAL POLICY**

#### **SECTION**

- 20-401. Short-term rentals.
- 20-402. Operating permit required.
- 20-403. Application requirements.
- 20-404. Types of operating permits.
- 20-405. Fees.
- 20-406. Issuance of permit.
- 20-407. Permit renewal.
- 20-408. Permit non-transferrable.
- 20-409. No vested rights.
- 20-410. Compliance with town and state laws.
- 20-411. Operation without permit.
- 20-412. Public nuisance.
- 20-413. Complaints.
- 20-414. Revocation of permit.
- 20-415. Appeal denial or revocation.
- 20-416. Additional remedies.
- 20-417. Town shall not enforce private agreements.
- 20-418. Taxes.
- 20-419. Advertising.
- 20-420. Maximum occupancy.
- 20-421. Severability.

**20-401. Short-term rentals.** The Town of Caryville has determined that regulation of short-term rental units is necessary in order to protect the health, safety, and welfare of the public, as well as to promote the public interest by regulating the methods of operation. To meet these ends, the town has determined that all persons eligible to operate short-term rental units within the town must be issued a permit pursuant to the requirements of this section. (as added by Ord. #2019-06, Dec. 2019 *Ch3\_12-9-19*)

**20-402. Operating permit required.** (1) Once thirty (30) days have passed from the passage of this chapter it shall be unlawful to operate or advertise any short-term rental unit without a short-term rental unit operating permit issued under this section.

(2) Exceptions will be made for qualifying property owners who are eligible to utilize their property as a short-term rental and have applied for a permit within the thirty-day timeframe but have steps to take in order to meet the permitting requirements. A reasonable time will be provided to the owner

to allow the remaining requirements for a permit to be met. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-403. Application requirements.** (1) Every qualifying property owner desiring to operate a short-term rental unit shall submit an application for an operating permit to the town recorder or his/her designee. In addition to the information required by the application itself, the town recorder or his/her designee may request other information reasonably required to allow the town to process the application. The permit application shall not be considered complete until the town recorder has all information as required by the application or otherwise. Each application shall contain at the least all of the following information.

(2) Applicant must acknowledge that they have read all regulations pertaining to the operation of a short-term rental unit within the Town of Caryville, including this section, the town/county business license requirements, the town's occupancy privilege tax requirements, any additional administrative regulations promulgated or imposed by the town to implement this section, and acknowledging responsibility for compliance with the provisions of this article.

(3) If a lessee is operating a short-term rental unit, the lessee shall provide

(a) The full legal name of the owner of the short-term rental unit;

(b) The mailing address, email address, and telephone number(s) of the owner; and

(c) The owner's signature acknowledging the owner's understanding of all town short-term rental unit rules and verifying the owner's agreement that they are legally responsible and liable for compliance by the lessee and all occupants of the short-term rental unit with all provisions of this chapter and other applicable ordinances of the town.

(4) Applicant must designate a person who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of:

(a) Being able to physically respond, as necessary, within forty-five (45) minutes of notification of a complaint regarding the condition, operation, or conduct of occupants of the short-term rental unit; and

(b) Taking any remedial action necessary to resolve any such complaints. This contact person may be the owner, a lessee, or the owner's agent.

(5) Applicant must provide the full legal name, street and mailing addresses, email address, and telephone number of the owner of the short-term rental unit, and in cases where a business entity or trust is the owner of the property, the individual who has responsibility for overseeing the property on behalf of the business entity or trust, including the mailing address, email

address, and telephone number of the individual having such responsibility. If the owner of a short-term rental unit is a business entity, the business must submit documentation to demonstrate that the business is in good standing with the Tennessee Secretary of State.

(6) Applicant and owner (if different), must acknowledge in writing that in the event a permit is approved and issued, applicant and owner (if different) assume all risk and indemnify, defend and hold the town harmless concerning the town's approval of the permit, the operation and maintenance of the short-term rental unit, and any other matter relating to the short-term rental unit.

(7) Applicant must provide a valid Campbell County and Town of Caryville Business License. For short-term rental units that were in operation prior to enactment of this chapter, proof that applicant remitted taxes due on renting the short-term rental unit, pursuant to title 67, chapter 6, part 5 of the Tennessee Code for filing periods that cover at least six (6) months within the twelve (12) month period immediately preceding the date this chapter is adopted. (as added by Ord. #2019-06, Dec. 2019 **Ch3\_12-9-19**)

**20-404. Types of operating permits.** There are three (3) types of permits available under this chapter.

(1) Owner occupied. This type of permit is available to owner's who utilize the property as their principal residence, except in the instance of duplexes as further described in this chapter. A person can only hold one (1) owner occupied operating permit in the town, and it is only available to natural persons. The owner is not required to remain or be present at the short-term rental unit during the period when it is used as a short-term rental.

(a) If there is an accessory dwelling structure on the property, this type of operating permit can be used for either the primary dwelling or the accessory structure, but not for both. If the property houses a legal duplex and an owner owns both sides of the duplex, this type of permit is available to the owner for either side of the duplex so long as the owner's principal residence is on one side of the duplex.

(b) Proof of ownership and residency is required for this type of permit and shall be established by the deed for the property as recorded in the Campbell County Register of Deeds Office. Residency shall be established by at least two (2) of the following documents, which must list the address of the short-term rental unit on the document:

- (i) Owner's motor vehicle registration;
- (ii) A valid driver's license or Tennessee identification card for owner;
- (iii) The address used for the school registration of owner's children;
- (iv) The owner's voter registration card; or

(v) Owner's W-2 form reflecting the property address.

(c) At least one (1) owner listed on the deed for the short-term rental unit must establish residency at the short-term rental unit.

(2) Non-owner occupied. This type of permit is available to an owner or lessee of the property and is available to a natural person or a business entity. Upon application for a non-owner-occupied permit, if a lessee is applying, they must provide the owner's signature as set forth above.

(3) Unoccupied. This type of permit is available to a non-occupant owner of premises where the premises are only occupied when used as a short-term rental unit and are available to natural persons and business entities. These permits may also be held by an owner's agent, such as a rental company, with the rental company providing the same information and guarantees as is required of a lessee of property.

(a) If there is an accessory dwelling structure on the property, the permit can be used for the primary dwelling or accessory dwelling structure, but not for both. If a property houses a legal duplex and an owner owns both sides of the duplex, only one side of the duplex can be used. (as added by Ord. #2019-06, Dec. 2019 **Ch3\_12-9-19**)

**20-405. Fees.** An application for an operating permit under this article shall be accompanied by a fee of fifty dollars (\$50.00). Said fee is designed to reimburse the town for the cost of processing the application. There shall be no proration of fees, and once paid, they are non-refundable. (as added by Ord. #2019-06, Dec. 2019 **Ch3\_12-9-19**)

**20-406. Issuance of permit.** Once the town recorder or his/her designee has determined that the application is complete, a permit shall be issued or denied within fourteen (14) business days. If the town recorder is satisfied that the application and the short-term rental unit conform to the requirements of this section and other applicable laws and ordinances, a permit shall be issued to applicant. If the application or short-term rental unit does not conform to the requirements of this section or other pertinent laws or ordinances, the permit shall not be issued, but the applicant will be advised in writing of the deficiencies and be given a reasonable opportunity to correct them. If not corrected within a reasonable period of time, the application will be permanently denied and written notice of the denial given. The operating permit shall be valid for one (1) calendar year from the date of issuance, unless the operating permit is revoked pursuant to this chapter or terminated by ordinance or otherwise. (as added by Ord. #2019-06, Dec. 2019 **Ch3\_12-9-19**)

**20-407. Permit renewal.** Unless suspended or revoked for a violation of any provision of this chapter or other law, town ordinance or rule, a permit may be renewed annually upon payment of a renewal fee of fifty dollars (\$50.00), unless one (1) of the conditions set forth in § 20-414 are applicable. As with the



application fee, this fee is designed to compensate the town for the cost incurred in processing the application and taking any other action necessary to attempt to ensure the applicant's compliance with this chapter. The renewal fee shall be paid no later than fourteen (14) business days prior to the expiration date for the current permit. A renewal application shall be submitted to the town recorder. A renewed operating permit shall be good for one (1) calendar year from the date of issuance. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-408. Permit non-transferable.** A permit issued under this chapter is nontransferable, and any attempt to transfer it shall render the permit void. A transfer of the ownership interest in the property itself shall also render the permit void, whether the transfer is voluntary or involuntary and whether by deed, court order, foreclosure, by law, or otherwise. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-409. No vested rights.** Except in instances where constitutional principles or binding state or federal laws otherwise provide, the provisions of this chapter and any ordinances or other measures concerning short-term rental units are not a grant of vested rights to continue as a short-term rental unit indefinitely. Any short-term rental unit use, and permits for short-term rental units, are subject to provisions of other ordinances, resolutions, or other town measures concerning short-term rental units that may be enacted or adopted at a later date, even though such ordinances, resolutions, or other town measures may change the terms, conditions, allowance, or duration for short-term rental unit use, including but not limited to those that may terminate some or all short-term rental unit uses, with or without some period of amortization. While this recitation concerning vested rights is implicit in any uses permitted by the town, this explicit recitation is set forth to avoid any uncertainty or confusion. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-410. Compliance with town and state laws.** It shall be unlawful to operate a short-term rental unit in a manner that does not comply with all applicable town and state laws, and any violation shall subject the violator to a fine of fifty dollars (\$50.00) for each violation. For any violation, each day that the violation exists shall constitute a separate offense. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-411. Operation without permit.** Any short-term rental unit operating or advertising for operation without a valid permit shall be deemed a public safety hazard. The town may issue the operator, the owner, and the local contact person a civil citation for operating a short-term rental unit or advertising one for operation without a permit and the penalty for such is fifty dollars (\$50.00) per day per unit. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-412. Public nuisance.** It is unlawful and a violation of this chapter and is hereby declared a public nuisance for any person to commit, cause, or maintain a violation of any provision of this section or to otherwise fail to comply with any requirement contained in this section. The operation or maintenance of a short-term rental unit in violation of this chapter or any other town ordinance may be abated or summarily abated by the town in any manner permitted by this code or otherwise provided by law for the abatement of public nuisances. The town may issue civil citations to the operator, owner, occupants, and local contact person for any violation of this chapter or any other town ordinance by the operator, owner, local contact person, or occupants of the short-term rental unit, and the penalty for such is fifty dollars (\$50.00) per day. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-413. Complaints.** All complaints regarding short-term rental units shall be filed with the codes enforcement officer or his/her designee. Those making complaints are specifically advised that any false complaint made against a short-term rental unit owner or provider is punishable as perjury under Tennessee Code Annotated, § 39-16-702. For any complaint made, the town shall provide written notification of the complaint by regular mail to the operator and owner (if different) of the property at the address(es) provided on the application on file. The town shall investigate the complaint, and within thirty (30) days of the date notice was sent to the operator, the operator shall respond to the complaint, and may present any evidence they deem pertinent, and respond to any evidence produced by the complainant or obtained by the town through its investigation. If, after reviewing all relevant material, the town finds the complaint to be supported by a preponderance of the evidence, the Town may take, or cause to be taken, enforcement action as provided in this chapter or otherwise in the zoning ordinance, municipal code, or the generally applicable law. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-414. Revocation of permit.** The town may permanently revoke an operating permit if the town discovers that:

- (1) An applicant obtained the permit by knowingly providing false information on the application;
- (2) The continuation of the short-term rental unit presents a threat to public health or safety;
- (3) The owner ceases to own the property;
- (4) The property is not used as a short-term rental for a period of thirty (30) months or more;
- (5) There has been a violation of a generally applicable local law three (3) or more separate times arising as a result of the operation of the property as a Short-term rental unit and all appeals from the violations have been exhausted. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-415. Appeal of denial or revocation.** If a permit is revoked, the codes enforcement officer shall state the specific reasons for the revocation. Any person whose application has been denied or whose operating permit has been revoked may appeal such denial by submitting a written request for a hearing to the codes enforcement officer within ten (10) days of the denial or revocation. A hearing shall be conducted by the town's codes enforcement appeals board at its next regularly scheduled meeting, and the applicant or permit holder must be present for the appeal to be heard. The codes enforcement appeals board shall consider whether the denial or revocation was justified and whether good cause exists to issue or reinstate the permit. The decision of the codes enforcement appeals board shall be issued verbally during the course of the meeting and the applicant or operating permit holder shall be given the opportunity to address the codes enforcement appeals board. Should the applicant or permit holder fail to appear, the appeal shall be dismissed. The decision resulting therefrom shall be final and subject only to judicial review pursuant to state law. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-416. Additional remedies.** The remedies provided in this chapter are not exclusive, and nothing in this section shall preclude the use or application of any other remedies, penalties or procedures established by law. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-417. Town shall not enforce private agreements.** The town shall not have any obligation or be responsible for making a determination regarding whether the issuance of an operating permit or the use of a dwelling as a short-term rental unit is permitted under any private agreements or any covenants, conditions, and restrictions or any of the regulations or rules of the homeowners' association or maintenance organization having jurisdiction in connection with the short-term rental unit, and the town shall have no enforcement obligations in connection with such private agreements or covenants, conditions and restrictions or such regulations or rules. If the short-term rental unit operator is a lessee, the owner of the short-term rental unit shall provide written acknowledgment and agreement to the short-term rental unit, but the town shall not have any obligation or be responsible for verifying the ownership information. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-418. Taxes.** All short-term rental unit operators are responsible for applicable taxes, including, but not limited to, hotel occupancy privilege tax, local option sales tax, and gross receipts tax to the town sales tax to the State of Tennessee, and gross receipts tax to the State of Tennessee. (as added by Ord. #2019-06, Dec. 2019 ***Ch3\_12-9-19***)

**20-419. Advertising.** It shall be unlawful to advertise any short-term rental unit without the operating permit number clearly displayed on the advertisement. For the purposes of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short-term rental unit in any forum, whether electronic or non-electronic, in order to promote the availability of the short-term rental unit. (as added by Ord. #2019-06, Dec. 2019 *Ch3\_12-9-19*)

**20-420. Maximum occupancy.** The number of transients in a short-term rental unit shall not exceed the sum of three (3) transients per bedroom plus; however, the maximum occupancy of the short-term rental unit shall not exceed eight (8) persons, including transients and any other individuals residing in or otherwise using the short-term rental unit. A bedroom is hereby defined as a room having a source of natural light, a minimum ceiling height of seven feet six inches (7' 6"), have means of emergency egress, a source of permanent heat, and a smoke alarm. (as added by Ord. #2019-06, Dec. 2019 *Ch3\_12-9-19*)

**20-421. Severability.** The town hereby declares that should any section, paragraph, sentence, phrase, term or word of this chapter be declared for any reason to be invalid, it is the intent of the town that it would have adopted all other portions of this chapter independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph; sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. (as added by Ord. #2019-06, Dec. 2019 *Ch3\_12-9-19*)



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**APPENDIX A**  
**ZONING ORDINANCE**  
**MUNICIPAL FLOODPLAIN ZONING ORDINANCE**  
**TOWN OF CARYVILLE, TENNESSEE**

**Prepared with assistance from**  
**Tennessee Department of Economic and Community Development**  
**Local Planning Assistance Office**  
**PO Box 51365**  
**Knoxville, Tennessee 37950**

**ZONING ORDINANCE**  
**OF THE TOWN OF**  
**CARYVILLE, TENNESSEE**  
**AUTHORITY**

An ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-210 and Section 13-7-401, Tennessee Code Annotated, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts within the corporate limits; to regulate, within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population, and the uses of land, buildings and structures; to provide methods of administration of this ordinance; and to prescribe penalties for the violation thereof.

BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Caryville, Tennessee.

**ARTICLE I. SHORT TITLE**

This ordinance shall be known as the "Zoning Ordinance of the Town of Caryville, Tennessee." The map herein referred to, and which is identified by the title "Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee," and all explanatory matter thereon are hereby adopted and made a part of this ordinance. (Ord. #93-3, May 1993)

**ARTICLE II. PURPOSE**

These zoning regulations and districts as herein set forth have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other danger, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration among other things, as to the character of each district, and its particular suitability for particular uses, and with a view of conserving the value of

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<sup>1</sup>The zoning map is of record in the office of the city recorder.



buildings and encouraging the most appropriate use of land throughout the town. (Ord. #93-3, May 1993)

### **ARTICLE III. DEFINITIONS**

Unless otherwise stated the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not discretionary. The words "used" or "occupied" as applied to any land or building shall be construed to include the word intended, arranged, or designed to be used or occupied.

**300.1 Adult-Oriented Businesses and Uses:** Adult-oriented businesses and uses are defined in accordance with and controlled by the Town of Caryville Municipal Ordinance 2003-01, Licensing and Regulation of Adult-Oriented Businesses and any subsequent amendments to said ordinance.

### **301. Alcoholic Beverages.**

**301.1 Brewery.** Facility that primarily manufactures and sells wholesale high alcohol content ales, beer or malt beverages in quantities of ten thousand (10,000) barrels or more per year with each barrel holding thirty-one (31) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

**301.2 Brew Pub.** A restaurant as the principal use that includes a micro-brewery integrated into the restaurant operation as an accessory use. Such facility devotes at least seventy percent (70%) of the gross floor area for the preparation, dining and sale of food. The manufacture of ales, beer or malt beverages shall not exceed thirty percent (30%) or five thousand (5,000) square feet in area whichever is greatest.

**301.3 Micro-Brewery.** Facility that primarily manufactures high alcohol content ale, beer or malt liquor in quantities of less than ten thousand (10,000) barrels per year with each barrel holding thirty-one (31) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

**301.4 Distillery.** An establishment for the manufacture of intoxicating liquor that includes, but is not limited to whiskey, brandy, "moonshine," and other alcoholic spirits

that contain high alcohol content that produces more than five thousand (5,000) barrels per year with each barrel holding fifty-three (53) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

301.5      Micro-Distillery. An establishment for the manufacture of intoxicating liquor that includes, but is not limited to whiskey, brandy, "moonshine," and other alcoholic spirits that contain high alcohol content in quantities not to exceed five thousand (5,000) barrels per year. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

301.6      Winery. An agricultural processing facility used for commercial purposes of processing fruit or fruit juice that may include all or a majority of processes such as crushing, fermenting, blending, aging, storing, bottling, and selling of wine that may also include a lab, retail sales and a tasting room on the facilities that produces over two thousand (2,000) cases per year with each case containing 2.378 gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

301.7      Micro-Winery. Winery producing up to two thousand (2,000) cases per year with a maximum site area of one (1) acre. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

302.      Arterial Street. A street that provides for traffic movement between areas and across portions of the city and secondarily for direct access to abutting land.

303.      Boarding or Rooming House. A building containing a single dwelling unit and not more than five guest rooms where lodging is provided with or without meals for compensation.

304.      Buffer Strip. A plant material acceptable to the building inspector which has such growth characteristics as will ultimately provide an obscuring screen not less than six (6) feet in height, starting with a base row of vegetation not less than eighteen (18) inches in height.

**305. Building.** Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

305.1      **Principal Building.** A building in which is conducted the primary use of the lot on which the building is located. In any residential district, any dwelling shall be deemed to be the principal building of the lot upon which it is located.

305.2      **Accessory Building or Use.** A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

**306. Building Height.** The vertical distance measured from the finished grade at the building line to the highest point of the roof.

**307. Business sign.** A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

**308. Carport.** A structure used for the storage of vehicles and having no enclosure other than its roof and such necessary support as will present the minimum obstruction to light, air, and view.

**309. Clinic, Medical, Dental or Chiropractic Office.** A structure used for providing outpatient services for the examination and treatment of ill or afflicted human outpatients, provided, however, that the patients are not kept overnight. This definition does not include Methadone Treatment or Pain Management Clinics.

309.1      **Methadone Treatment Clinic or Facility.** A licensed facility for counseling of patients and the distribution of methadone for out-patient, non-residential purposes only. A methadone treatment clinic or facility is not a medical clinic or substance abuse treatment facility as per the Caryville Zoning Ordinance.

309.2      **Pain Management Clinic.** A privately owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but

not including suboxone, for more than ninety (90) days in a twelve (12) month period. A pain clinic does not include:

1. A medical or dental school, a nursing school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs:
  - a. A hospital as defined by Section 68-11-201 Tennessee Code Annotated, including outpatient facility or clinic of a hospital;
  - b. Hospice services as defined by Section 68-11-201 Tennessee Code Annotated;
  - c. A nursing home as defined by Section 68-11-201 Tennessee Code Annotated;
  - d. A hospital or clinic maintained or operated by the federal government.

**310. Club.** Buildings and facilities owned or operated by an association or person for a social or recreational purpose and are not generally operated to make profit or to render services which are customarily considered business operations.

**311. Collector Street.** A street providing for traffic movement within the town.

**312. Condominium.** A multi-unit structure offering individual ownership of said units.

**313. Day Care Center.** A place operated by a person, society, agency, corporation, institution, or other group that receives pay for the care of eight (8) or more children under 17 years of age for less than 24 hours per day, without transfer of custody. The term "Day Care Center" also includes child development centers, nursery schools, day nurseries, play schools, and kindergartens, as well as agencies providing before-and-after school care, regardless of name, purpose, or auspices (excluding schools containing grades 1-12 and kindergartens which are operated by governmental units or by religious organization).

- 314. Dwelling, Single-Family.** A building designed, constructed, and used for one (1) dwelling unit.
- 315. Dwelling, Two-Family or Duplex.** A building designed, constructed, or reconstructed and used for two (2) dwelling units that are connected by a common structural wall.
- 316. Dwelling, Multi-Family.** A building designed, constructed or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural wall with any other dwelling on the same floor.
- 317. Family.** One (1) or more persons occupying a dwelling and living together as a single housekeeping unit.
- 318. Home Occupation.** An occupation for gain or support which is customarily conducted in the home, which is incidental to the use of the building or structure as a dwelling unit, which employs not more than two (2) persons not residents of the premises, and for which not more than thirty (30) percent of the combined total area of the entire premises is used for home occupation purposes.
- 319. Liquid Wastes.** All liquid wastes which result from industrial processes and manufacturing operations which may result in the pollution of any surface or ground waters, including, but not limited to, industrial and sanitary sewage and ground, surface, storm, or other water as may be present.
- 320. Lot.** A parcel of land which fronts on and has access to a public street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open spaces.
- 320.1      Lot line.** The boundary dividing a given lot from a street, alley, or adjacent lots.
- 320.2      Lot of record.** A lot existing prior to this ordinance, the boundaries of which are filed as legal record.
- 321. Manufactured Dwelling Unit.** A detached dwelling constructed primarily off-site and designed to be transported on flatbed truck or trailer; provided the structure is installed on a permanent concrete or masonry foundation with permanent sewer and water connection. Such structures shall have the same general

appearance as required for site-built homes and shall comply with all requirements of the existing municipal building code.

- 322. Mobile Home.** A factory-manufactured structure constructed as a single self-contained unit and mounted on a single chassis and designed for transportation after fabrication on streets or highways on its own wheels. A travel trailer is not to be considered as a mobile home.
- 323. Mobile Home Park.** A parcel or tract of land under single ownership which has been: (a) planned under the planned unit development concept; (b) improved for the placement of mobile homes for dwelling purposes; and (c) approved by the planning commission.
- 324. Nonconforming Use.** Any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.
- 325. Nursing Home.** One licensed by the State of Tennessee.
- 326. Odorous Matter.** Any material, gaseous, liquid, or solid that produces a response in the normal human nose.
- 327. Outdoor Advertising.** An attached, freestanding, or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge, or idea to the public.
- 328. Planned Unit Development.** An integrated design for development of residential, commercial, or industrial uses or combination of uses which is professionally designed to allow flexibility and initiative in site and building design and location, in accordance with a plan approved by the planning commission. For the purpose of this ordinance, cluster subdivisions, condominiums, townhouses, multi-family dwellings, mobile home parks, multi-use commercial developments, and industrial parks shall be considered as planned unit developments.
- 329. Planning Standards.** Defined as and refers to any planning, design, and development, performance standards, guidelines or requirements, whether published or unpublished, and pertains to building development for property, lots, and buildings.

- 330. Shopping Center.** A group of commercial establishments, planned, developed, owned, or managed as a unit, with off-street parking provided on the property.
- 331. Solid Waste.** All solid wastes which result from industrial processes and manufacturing operations including, but not limited to, garbage, refuse, rubbish, trash, scrap materials, offtest and rejected solid materials, by-products, spent catalysts, waste sludges, rubble, and other such solid waste materials resulting from operations and activities taking place on a lot.
- 332. Story.** That portion of a building situated between the upper surface of any floor and the upper surface of the floor located immediately above; or any portion of a building used for human occupancy between the topmost floor and the roof.
- 333. Street, Public.** Any vehicular way, except alleys, which is owned and maintained by the town, state, or federal governments.
- 334. Structure.** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.
- 335. Total Floor Area.** The area of all floors of a building including finished attic, finished basement, and covered porches.
- 336. Townhouse.** A townhouse is a single family dwelling unit attached by fire resistant common walls to other similar type units, each unit having an open space for light, air, and access in the front and rear.
- 337. Travel Trailer.** Any vehicle used, or so constructed as to permit its being used as conveyance upon the public streets or highways able to be licensed as such, and constructed in a manner that will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and is designed for short-term occupancy, frequent and/or extensive travel, or recreational and vacation purposes (including camper trucks, self-propelled campers, etc.).
- 338. Travel Trailer Parks.** Any plot of land upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters. The occupants of such parks may not remain in the same trailer park more than thirty (30) days.

**339. Yard.** An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except, as otherwise provided in this ordinance.

339.1      Front Yard. The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.

339.2      Rear Yard. The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches.

339.3      Side Yard. A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

**340. Sign.** Any display, graphic, image, device, structure, or structure extension, to include banners and other attractions created by electronics, lasers, construction, sculpturing, painting, or other means, that has as its primary function and intent, purpose, or effect, the identification of an activity, event, product, or person, and, the attraction of public attention to, or the promotion of, such service, facility, place, product, person, or business, whether for profit or not.

340.1      Advertisement Sign. A sign that has as its primary function and intent, purpose, or effect, the attraction of public attention to or the promotion and marketing of, an activity, a facility, a product, a place, a business, or a service.

340.2      Billboard. An off-premises advertisement sign.

340.3      Business Sign. A sign which directs attention to a business or profession conducted on the premises.

340.4      Identification Sign. A sign intended primarily for the purpose of identifying the location and/or occupants of a site.

340.5      Off-Premises Sign. A sign promoting or advertising products, items, services, and/or activities available at a site other than that of the sign.



- 340.6      On-Premises Sign. A sign promoting or advertising products, items, services, and/or activities available at the site of the sign.
- 340.11    Temporary Sign. Any sign permitted as a temporary sign and all signs normally considered or designed to be used for limited duration, such as portable and moveable signs, signs painted or mounted on vehicles, real estate and development location promotion signs, special sales, yard sales, and other events. No temporary sign shall stand, however, for a period exceeding ninety (90) days.
- 340.12    Wall Sign. Any sign which is attached to, painted on, or in some other way uses a wall or roof for support, except for projecting signs which are attached to a wall surface and extend perpendicularly therefrom.
- 340.13    Changeable Copy Sign. A sign which displays words, lines, logos, or symbols that can change manually or electronically to provide different information. These signs include computer signs, electronic signs and reader boards. (Ord. #93-3, May 1993, as amended by Ord. #97-1, May 1997, Ord. #2003-01, May 2003, Ord. #2007-04, June 2007, Ord. #2011-05, March 2012, and Ord. #2013-08, Dec. 2013)

#### **ARTICLE IV. GENERAL PROVISIONS**

**401. Continuance of Nonconforming Uses.** Any lawful use of any building or land existing at the time of the enactment of this ordinance or whenever a district is changed by an amendment thereafter may be continued, although such use does not conform with the provisions of this ordinance, with the following limitations:

401.1 No building or land containing a nonconforming use, except commercial and industrial uses as set out in Section 13-7-208, Tennessee Code Annotated shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this ordinance.

401.2 Any nonconforming building which has been damaged by fire or other causes may be reconstructed and used as before unless the Building Inspector determines that the building is damaged to the extent of more than fifty (50) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.

401.3 When a nonconforming use of any building or land has ceased for a period of six (6) months, it shall not be reestablished or changed to any use not in conformity with the provisions of this ordinance. (Ord. #93-3, May 1993)

**402. Off-Street Automobile Parking.** Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least one hundred sixty (160) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

With the exception of single family dwellings, all required parking areas for all other uses shall be surfaced with asphaltic concrete, cement concrete, or other similar materials. The reviewing body,

however, may approve the use of grassed or graveled parking areas for churches or other places of worship, for places of public assembly for meetings or other events, and for temporary uses where it is clear that such areas can be adequately maintained due to the infrequency of use, that adequate traffic control means will be provided for directing the flow of traffic and for parking, and that paved parking areas will be provided for all regular employees and visitors.

- 402.1      Automobile repair garages: one (1) space for each regular employee plus one space for each two hundred fifty (250) square feet of floor space used for repair work.
- 402.2      Churches: one (1) space for each four seats.
- 402.3      Clubs and lodges: one (1) space for each three hundred (300) square feet of floor space.
- 402.4      Dwellings:
  - 402.41      Single-family and duplex - two (2) spaces for each unit.
  - 402.42      Multi-family - two (2) spaces for each unit.
- 402.5      Funeral parlors: one (1) space for each four (4) seats in the chapel.
- 402.6      Gasoline service stations and similar establishments: four (4) spaces for each bay or similar facility plus one space for each employee.
- 402.7      Hospitals and nursing homes: one (1) space for each two (2) staff or visiting doctors plus one space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.
- 402.8      Hotel: Not less than one (1) space per guest room plus one (1) space for each three (3) employees.
- 402.9      Industry: one (1) space for each three (3) employees, computed on the largest number of persons employed at any period during day or night.

- 402.10      Motels: Not less than one (1) space for each guest room plus one (1) space for each three employees.
- 402.11      Offices:
- 402.111      Medical - one (1) space for each three hundred (300) square feet of floor space.
- 402.112      Other professional - one (1) space for each four hundred (400) square feet of floor space.
- 402.113      General - one (1) space for each four hundred (400) square feet of floor space.
- 402.12      Places of public assembly: One (1) space for each five (5) seats in the principal assembly room of area.
- 402.13      Recreation and amusement areas without seating capacity: One (1) space for each (5) customers, computed on a maximum service capacity.
- 402.14      Restaurants: one (1) space for each four (4) employees, plus either one (1) space for each four (4) customers, computed on a maximum service capacity, or one (1) space for each two hundred (200) square feet of net floor space, whichever is greater.
- 402.15      Retail business and similar uses: one (1) space for each three hundred (300) square feet of gross floor space.
- 402.16      Schools: one (1) space for each faculty member, plus for high schools one space for each four (4) pupils, and for elementary, junior high and middle schools one space for each twenty (20) pupils.
- 402.17      Mobile home parks: two (2) spaces for each mobile home.
- 402.18      Wholesale business: one (1) space for each three (3) employees based on maximum seasonal employment plus one space for each five hundred (500) square feet of usable floor space.
- 402.19      If off-street parking space required above cannot be reasonably provided on the same lot on which the principal

use is conducted, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use, and not on the opposite side of a major street or stream. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any other manner.

402.20      Extension of parking space into a residential district: Required parking space may extend up to one hundred twenty (120) feet into a residential zoning district, provided that the parking space: (1) adjoins a commercial or industrial district; (2) has its only exit to or from upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and (3) is separated from abutting properties in the residential district by either a buffer strip or a fence, as determined by the planning commission.

402.21      Handicapped parking: All off-street parking areas shall reserve spaces for use by disabled persons in accordance with the following standards:

<u>Total Parking in Lot</u>	<u>Required Number of Handicapped Spaces</u>
1 to 25	1
16 to 50	2
51 to 75	3
76 to 109	4
110 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of Total
Over 1000	20 plus 1% of total over 1,000

All handicapped parking spaces shall be a minimum of twelve (12) feet in width, adequately identified for handicapped use only, and

located in a manner as to be approximate to the major facility, free from standing water, and situated in a way so that a handicapped individual will not have to walk or maneuver behind other parking cars. This requirement shall not apply to parking accessory to one (1) and two (2) family dwellings. (Ord. #93-3, May 1993)

**403. Off-Street Loading and Unloading Space.** On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

403.1      Retail business: One (1) space of at least 12 feet x 25 feet for each three thousand (3,000) square feet of floor area or part thereof.

403.2      Wholesale and industrial: One (1) space of at least 12 feet x 50 feet for each ten thousand (10,000) square feet of floor area or part thereof.

403.3      Terminals: Sufficient space (minimum of nine hundred (900) square feet per space, with dimensions of 15 feet x 60 feet) striped off to accommodate the maximum number of buses or trucks that will be stored and/or loading and unloading at the terminal at any one time. (Ord. #93-3, May 1993)

**404. Vision Clearance.** In all districts there shall be no plants or structures placed in or on any portion of a lot that would obstruct the vision of auto or pedestrian traffic using the intersecting public streets. (Ord. #93-3, May 1993)

**405. Ingress and Egress.** A plan for adequate and safe ingress and egress for all land uses shall be required. (Ord. #93-3, May 1993)

**406. Planned Unit Development.** Plans based upon the following regulations for planned unit developments shall be submitted to the planning commission for approval and shall comply with the regulations established in this section.

406.1      Purpose: The purpose of the Planned Unit Development (PUD) regulations is to provide the opportunity for flexibility in the standard residential, commercial, or industrial design requirements of this ordinance for the purpose of creating a more desirable living working, and/or shopping environment. Planned unit developments are

intended to achieve economies in land development, maintenance, street systems, and utility networks while providing privacy, usable attractive open areas, safe circulation, and promoting the general well-being of the inhabitants.

406.2      Location: A PUD may be located within any residential, commercial, or industrial district provided that a site plan showing the density and use requirements of the district in which such a PUD is to be located has been reviewed and approved by the planning commission.

406.3      Permitted uses in PUDs: Any use permitted in the district in which the PUD is to be located.

406.4      Height and Area Regulations:

406.41      No building shall exceed three (3) stories or thirty-five (35) feet in height.

406.42      No freestanding building shall be located closer than:

406.421      Twenty (20) feet to any other freestanding building;

406.422      Twenty-five (25) feet to any exterior property line; or

406.423      Fifteen (15) feet to any internal private drive right-of-way. If, however, such freestanding buildings abut a public street, the required setback distance for the respective zoning district shall apply.

406.5      Off-street parking and loading: All minimum off-street parking, loading and unloading requirements set forth in Sections 402 and 403 of this ordinance shall apply to the PUD.

406.6      General Provisions:

406.61      Relationship to the subdivision regulations: The arrangement of public and common ways for pedestrian and vehicular circulation in relation to

other existing or planned streets in the area and to the Major Street Plan, Caryville, Tennessee, together with provisions for street improvements, shall generally comply with standards set forth in the subdivision regulations.

Upon application by the landowner and if good cause is shown, the planning commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this section. Modifications may be incorporated only with the approval of the planning commission as a part of its review of the development and granted as a variance in the preliminary approval of the subdivision plat, which shall be concurrent with the final approval by the planning commission of the development plan.

406.62      Site Improvements:

406.621      All streets and drives shall be constructed to conform with the Caryville Subdivision Regulations and street acceptance standards of the Town of Caryville.

406.622      Sidewalks or an equivalent paved, internal pedestrian circulation system approved by the planning commission shall be constructed in the planned unit development.

406.623      Storm drainage structures shall be constructed in accordance with plans and specifications approved by the planning commission.

406.624      Any planned unit development to be constructed in Caryville shall be served by a sanitary sewerage system approved by both the Caryville - Jacksboro Utility Commission and the planning commission.

406.625      For all mobile home parks and similar developments:

406.625.1    For the prevention of noise and also for the improvement of visual character



and a generally more pleasing environment, a landscaping plan showing adequate landscaping shall be shown on the general PUD plan and shall be approved by the planning commission; and

406.625.2 The landscaping plan will provide for general landscaping as well as provide for screening around the exterior property lines of the development, using a planted buffer strip as defined in this ordinance.

406.625.3 The owner of any real property that is the site or the proposed site for a mobile home, whether that mobile home unit is the property of the landowner or another, said landowner shall be held responsible for obtaining the required permits and inspections.<sup>1</sup>

406.626 Each PUD shall be limited to one major business sign and any number of small accessory business signs. All small accessory signs shall be a face sign attached to a building and shall not project above the building. All proposed signs shall be reviewed and approved by the Caryville Municipal Planning Commission during the plan approval stage.

406.63 Building Construction: No multi-family structure in a PUD shall have more than four (4) continuous

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<sup>1</sup>Section 2 of Ord. #96-2 provides as follows:

Every property owner offering mobile home units for rent or lease, or mobile home space(s) in a mobile park or subdivision for rent or lease, shall provide within ninety (90) days of passage of this ordinance, to the Caryville Building Inspector, evidence of a valid building permit or certificate of occupancy. Said property owner(s) shall further provide a list of all units, by mail address, State identification number, and the date of issue.

apartment units that are not separated by fire resistant construction.

406.64      Density: Areas designated for the site of schools, churches, and other public buildings shall not be used when computing allowed densities. However, the open space around these sites can be so computed.

406.65      Open Space Requirements:

406.651      Residential: On site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD, and should therefore be easily accessible to them. If the PUD is to be of individually owned units, then this space shall be maintained in common ownership, established in the appropriate legal manner.

406.652      Commercial and Industrial Planned Unit Developments shall meet all open space requirements as established by this ordinance.

406.653      All open space shall be landscaped and all such landscaping shall be shown in the planned unit development plan.

406.654      Open space shall be established in the appropriate legal manner and maintained in one of the following methods:

406.654.1    By the developer or management authority of the PUD.

406.654.2    By a Homeowner's Association established by deed restrictions.

406.654.3    By the public if dedication of such open space is approved by the planning commission and board of mayor and aldermen.

406.66      Stages of Development:

406.661 The applicant may elect to develop the site in successive stages in a manner indicated in the planned unit development plan; however, each such stage shall be substantially complete within itself.

406.662 If public facilities are not adequate to service the entire development initially, the planning commission may require that development be done in stages.

406.67 Changes and Modifications:

406.671 Major changes: Major changes in the planned unit development after it has been adopted shall be considered the same as a new petition and shall be made in accordance with the procedures specified in Section 406.7.

406.672 Minor changes: Minor changes in planned unit development plans may be approved by the planning commission without the developer having to file a new petition. Minor changes may include, but are not limited to, minor shifting of the location of any of the following: buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other features of the plan.

406.7 Application Procedure for Planned Unit Development: To obtain a Special Conditions Permit to develop a planned unit development, the developer shall submit a preliminary planned unit development plan to the Caryville Municipal Planning Commission for its review and approval. The preliminary PUD plan shall be drawn at a minimum scale of one inch equals one hundred (100) feet and shall:

406.71 Define the location, size, accessibility, and existing zoning of the proposed site;

406.72 Indicate the surrounding type of development and land use;

- 406.73 Set forth the type of development proposed, the density of the proposed development, and the location of all structures, parking areas, and open spaces; and
- 406.74 Show a plan for streets, thoroughfares, public utilities, and other public or community uses.
- 406.75 In addition to the above, the planning commission may require such other additional information as may be determined necessary to adequately review the proposed development.
- 406.76 No building permits shall be issued until after approval of both the final PUD plan and a preliminary subdivision plat for any portion of the property contained within the area encompassed by the final PUD plan which is to be subdivided. The Building Inspector shall revoke any permit issued in reliance upon said plan as finally approved at such time as it becomes obvious that such plan is not being complied with.
- 406.77 The final PUD plan shall conform to the preliminary PUD plan and shall also include such items, and in such format, as may be required by the planning commission.
- 406.78 Any special conditions permit shall expire twelve (12) months from and after its issuance if the development as planned has not been adhered to or is not being adhered to; provided, however, that if good cause is shown, said special conditions permit may be extended for additional periods not to exceed one (1) year. (Ord. #93-3, May 1993, as amended by Ord. #96-2, Feb. 1996)

**407. Special Carport Construction.** In housing constructed prior to the establishment of provisions addressing off-street parking of automobiles, carports may be constructed in rear and side yards provided the intent and purpose of this ordinance are met as

closely as possible and where in the opinion of the Building Inspector no objectionable condition to the community will result with construction of the carport. (Ord. #93-3, May 1993)

**408. Signs.**

408.1      Purpose: The purpose of this section is to establish reasonable regulations for the location of signs in a manner which is in harmony with the natural aesthetic character of the community. All signs erected, replaced, constructed, expanded, or relocated within the town shall conform to the provisions of this section.

408.2      General Provisions:

408.21      No part of any sign shall be placed within five (5) feet of any right-of-way, except that, ingress and egress signs may be placed on the right-of-way, but no closer than eight (8) feet to the traffic lane. Any sign permitted within a right-of-way shall not extend into an area higher than four (4) feet nor lower than ten (10) feet of the ground.

408.22      Deleted by Ord. #97-1, May 1997.

408.23      Deleted by Ord. #97-1, May 1997.

408.24      Applicants for a sign permit shall submit a construction plan and a site plan with each application for a permit. The plans shall show the location of the proposed sign in relationship to property lines, right-of-way, flood hazard area and similar features, county tax map location, and specifications identifying the type and design of any sign. For signs related to new buildings and uses which require site plan review by the planning commission, the sign site plan may be included as part of the general site plan, but will not exempt the applicant from submitting sign construction plans to the building inspector prior to issuance of a sign permit. The building inspector may issue permits for signs meeting the provisions of this ordinance and any town building and electrical codes in force, except that, the building inspector shall not issue permits

for signs within a public right-of-way, as set out in Section 408.21 of this ordinance, nor for any billboard, unless such signs have first been reviewed and received the approval of the planning commission. An initial inspection fee and an annual inspection fee shall be submitted as set out in Section 408.7.

- 408.25 The Building Inspector shall inspect, at any time he deems necessary, each sign regulated by this section to insure that such sign conforms to this section and all other ordinances of the town. A minimum of twenty-four (24) hours notice shall be provided to the Building Inspector for all required inspections. The Building Inspector has the discretion to require a greater setback than the applicable zoning district if it is deemed that the safety of the general public requires such setback.
- 408.26 Each commercial, industrial, public, semi-public, multi-family housing development, subdivision, and similar uses may have one (1) ground sign for each property line that abuts a publicly owned and maintained road, except that no such use may have more than two (2) ground signs.
- 408.27 No flashing or intermittent lighted sign shall be allowed.
- 408.28 All new signs exceeding four (4) square feet in area shall be issued a registration tag at such time as the building inspector conducts the final inspection. Signs existing on the effective date of this amendment shall be issued a registration tag within three months of such date by the building inspector. Registration tags shall be placed on the sign structure in a location which is easily visible to the building inspector. No such tag shall be altered or removed without prior approval of the building inspector. Tags for new and existing signs shall be renewed annually on the anniversary of their initial issuance. Signs four (4) square feet or less in area shall not be required to display a registration tag, but shall indicate who is responsible for its maintenance,

or in the case of small temporary signs, the person responsible for their removal.

Every sign shall be constructed, maintained, and located in a manner that meet acceptable safety standards. The building official, using national, state or other recommended and documented standards shall determine safety compliance.

408.29 No changeable copy sign shall be larger than twenty (20) square feet in area.

408.3 Location: All signs, except those noted in 408.21., shall be located on private property and in such a way as not to pose a hazard to traffic safety or to neighboring property, and, subject to the following requirements:

408.31 Residential districts: Signs permitted shall be limited to the following:

408.311 Real estate sales signs.

408.312 Home occupation and professional announcement signs, provided that only one sign not more than two (2) square feet in area is permitted.

408.313 Signs for nonresidential uses permitted in residential districts shall be no larger in area than one-half ( $\frac{1}{2}$ ) of the maximum sign size permitted for similar uses allowed in the C-1 and C-3 Districts.

408.32 Commercial and Industrial Districts. Signs shall be permitted in accordance with the following provisions.

408.321 Size:

408.321.1 Wall Signs: (see 339.12 for definition) Wall signs shall not extend above the uppermost point of a peaked roof or more than four (4) feet above the surface of a flat roof, except that, in no

case shall any portion of a wall sign be located so as to exceed the maximum building height for the district within which it is located. Wall signs may be located on any or all walls of a building, including windows, and occupy up to forty percent (40%) of any wall.

408.321.2     On-Premise Ground Signs: On-premise ground signs located in accordance with 408.26., shall not exceed one hundred (100) square feet in area, except that a shopping center and other similar multiple business buildings may have an identification sign which shall not exceed two hundred (200) square feet in area and which may contain within the allowable area, identification signs for businesses located within the shopping center or similar multiple business building. Within any commercial or industrial zoning district, any allowable use which is located within six hundred sixty feet (660') of the edge of the I-75 right-of-way may choose to increase the size and/or height of one (1) ground sign (see 408.26.) up to five hundred (500) square feet in area and sixty feet (60') in height above the centerline elevation of interstate pavement at the point nearest the sign. Prior to the final inspection and issuance of a tag, the building inspector shall be provided a certified survey verifying the height of any such sign.

408.321.3     Off-Premises Ground Signs: Off-premises advertising signs are permitted on sites within commercial and industrial zoning districts located within six hundred sixty feet (660') of the edge of the I-75 right-of-way. No such sign shall be located any closer than one thousand feet (1,000') to any



other off-premise advertising sign nor closer than one thousand (1,000) feet to the nearest point of the beginning or ending of pavement widening at the exit or entrance to the main traveled way, shall not exceed five hundred (500) square feet in area, nor exceed sixty feet (60') in height above the centerline elevation of interstate pavement at the point nearest the sign. Prior to the final inspection and issuance of a tag, the building inspector shall be provided a certified survey verifying the height of any such sign.

408.321.4 Shopping center signs: 150 square feet.

408.321.5 Roof signs: shall not extend above roof peak and shall not exceed 150 square feet in area nor 20 feet in height.

408.322 In the determination of maximum size of signs, the Building Inspector may consider a 10 percent alteration in signs of fifty (50) square feet or less and a 5 percent alteration in signs of fifty-one (51) square feet or more, provided that it is necessitated by an unusual or exceptional situation.

408.323 Deleted by Ord. #97-1, May 1997

408.4 Maximum height of signs: All ground signs, except as provided for in 408.321.2. and 408.321.3., shall have a maximum height of thirty feet (30'). The building inspector, however, may allow the maximum height to be extended to forty feet (40') due to unusual circumstances involving topography or congestion of existing signs.

408.5 Off-Premise Directional Signs: Official signs and notices relating to meetings or the identification of non-profit service clubs, charitable associations, or religious services are allowed subject to the following conditions:

- 408.51 Not more than two (2) off-premise directional signs shall be permitted for any service club or religious organization.
- 408.52 Off-premise directional signs shall be located on private property, except that the Board of Mayor and Aldermen may, upon recommendation by the planning commission, designate certain public areas for the location of off-premise public notice/information signs. In no instance, however, shall any sign be located in a manner which will create a traffic hazard. (See 408.21.)
- 408.53 The off-premise directional sign shall not exceed eight (8) square feet in area.
- 408.54 The sign shall be placed not less than six (6) feet above the surface of the ground and shall not exceed nine (9) feet in height above the ground surface.
- 408.6 Portable and/or Movable Signs: These signs shall be permitted only on the issuance of a temporary permit.
- 408.61 Temporary signs shall be allowed or permitted for no more than a thirty (30) day period, except that, such permit may be renewed by the Board of Zoning Appeals up to sixty (60) days, however, no temporary sign may be permitted for no more than ninety (90) days.
- 408.62 Temporary banner signs shall not be allowed to attach to utility poles, streetlights or guardrails, except for specific one-day events. The building inspector has the discretion to remove banner signs up longer than a day. The city shall be allowed to attach banners for decoration to utility poles during the holiday season.
- 408.7 Fees: A \$25.00 application fee is required for all applicants requesting a sign permit and shall be submitted to the city with the accompanying application. Following review of a sign plan by the planning commission and/or the building inspector, as may be required by these regulations, for those ground signs subject to an inspection fee, but prior to or on

the date of issuance of a sign permit, the sign owner shall submit a construction inspection fee, and thereafter, on or before the anniversary date of each year following the initial construction year, the sign owner shall submit an annual inspection fee, as set out below:

On-Premises Ground Signs:

Construction Inspection Fee: \$25.00, plus \$5.00 per \$1,000.00 of sign value, or as determined by the building official based on the size of the sign and the time required for its registration.

Annual Inspection/Tag Renewal Fee: \$30.00, or as determined by the building official based on the size of the sign and the time required for its inspection.

Off-Premises Ground Signs:

Construction Inspection Fee: \$50.00 per face, plus \$2.00 per \$1,000.00 of sign value.

Annual Inspection/Tag Renewal Fee: \$30.00, or as determined by the building official based on the size of the sign and the time required for its inspection.

408.71 Exemptions. Churches and other recognized (registered) civic/not for profit institutions are exempted from registration fees and tag requirements. (Ord. #93-3, May 1993, as amended by Ord. #97-1, Feb. 1997, Ord. #2000-4, Sept. 2000, and Ord. #2007-04, June 2007)

**409. Telecommunication Towers.** The following development standards and requirements shall apply to all proposed telecommunications towers to be located in the Town of Caryville. It is the intent of this section to allow for the construction and placement of appropriate telecommunications facilities in all zoning districts while minimizing their negative impacts upon the surrounding properties and the community as a whole.

Telecommunications towers are any structure that is designed and constructed primarily for the purpose of supporting any telecommunications antenna, dish, transmitter, or other equipment.

Antennas are any exterior apparatus (rods, panels, discs, etc.) designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves. Antenna does not include the support structure.

The following regulations shall apply to all telecommunication towers and related equipment placements in all zoning districts.

409.1      Telecommunications Towers as a Principal Use. For the purposes of the Caryville Zoning Ordinance, a telecommunications tower shall be considered a principal use of land. However, this definition shall not preclude the use of any existing structure or tower for the installation of a telecommunications antenna.

409.2      The Priority of Co-location. An applicant proposing to construct a new telecommunications tower shall identify all other existing towers within the town as possible alternative sites for antenna installation and shall provide documentation signed by appropriate licensed professionals that a tower has reached its capacity of additional antenna placements. Where feasible, priority shall be given to the placement of an additional antenna on an existing tower, instead of erecting a new tower. Furthermore, approval of the construction of a new telecommunications tower generally shall be contingent on the capability of future installations of additional antennae on such a tower. The applicant for a new tower shall provide written authorization to the planning commission indicating that the proposed tower is designed to allow the installation of additional antennae. The authorization shall be recorded at the Office of the Register of Deeds prior to the issuance of a permit for tower construction.

409.3      Application for the Erection of Telecommunications Tower.

409.31      A request to erect a telecommunications antenna or tower within the Town of Caryville shall be submitted to the Town's Building Official. If the request consists of an additional antenna placed on an existing structure or tower, without any extension of that structure or tower, and with no construction of new buildings, then the Town's Building Inspector may determine the conformance of the request with

Town regulations. However, if any new tower, extension of an existing structure or tower, of any new telecommunications building is proposed for a site, then the Town of Caryville Planning Commission shall consider the request, and no permit shall be issued without the approval of the planning commission.

409.32 Prior to any consideration by the planning commission regarding a telecommunications transmission location, the following must be submitted for the planning commission agenda at least ten (10) days before the meeting at which the telecommunications proposal shall be addressed.

409.321 A scaled site plan displaying the location, type, and height of the proposed tower; topographic contour lines at two (2) foot intervals; measures to control erosion and contain drainage on site; the locations and dimensions of any proposed or existing buildings on the site; locations of guy wires and their anchor points on the ground; dimensions of property boundaries, nearby rights-of-way and street names, easements, and significant natural features; proposed or existing access points into the site, utility lines or installations in the vicinity of the site; and, the locations of any structures on properties adjacent to the site, including the names of adjacent property owners and must be approved by the Town of Caryville Planning Commission prior to the issuance of a permit.

409.322 Upon placement of all telecommunications towers and related facilities, a certified survey shall be submitted to the Town's Building Official which shall verify tower and antennae heights and setbacks for the tower, other structures, and guy wires.

409.4 Setbacks for Towers and Associated Buildings or Facilities. The placement of any telecommunication tower shall be provided with a setback from each property line equivalent

in linear feet to the height of the tower, plus ten (10) feet. Any associated building(s) erected on the tower site shall be restricted to the base area of the tower.

409.5      Guy Wires and Supports. Guy wires for telecommunication towers shall be set back from the side and/or rear property lines a minimum of ten (10) feet. No guy wires shall be located in required front yards.

409.6      Lighting, Noise, and Color.

409.61      Lighting for a tower shall not exceed the requirements of Federal and State regulations, with regard to the number and color of lights. Intermittent or strobe lights shall be allowed on a tower only to the extent needed to satisfy Federal or State regulations. Lighting in excess of the applicable requirements shall not be permitted.

409.62      Insofar as possible, given Federal or State regulations, noise emanating from a tower, or from equipment accessory to it, shall not be audible to adjacent residents. Where such noise may emanate from a tower site, the applicant shall provide evidence for the implementation of measures to mitigate noise on surrounding properties.

409.63      Unless mandated by other applicable regulations, tower colors shall be restricted to those which tend to blend into the immediate environment, and which are as inconspicuous as possible.

409.7      Screening from Public View.

409.71      Landscaping shrubs and/or trees to a height not less than ten (10) feet shall screen fences, equipment enclosures, buildings, and all related facilities located at the base of tower. The material used for screening shall be natural or planted vegetation sufficient to prevent visual observation through the material. The preservation of existing mature trees is preferred except where such tree growth would interfere with the operation and maintenance of the facilities.

- 409.72 Defective or dead screening shall be replaced by the telecommunication tower owner to maintain the screening.
- 409.73 Vegetation installed for tower screening, the time allowed for the installation of landscaping shall not exceed six (6) months after the completion of tower construction and associated appurtenances.
- 409.74 The landscaping utilized shall be evergreen, native to the area, and shall be sufficient to obscure said fences, equipment and/or facilities from view within two (2) years of its installation and maintained in healthy condition.
- 409.8 Security Fencing. A minimum of eight- (8) foot high chain link fence shall enclose the base of the tower, including any accessory structures. Any proposed landscaping as required under 409.71 - 409.74, shall be installed outside the fenced enclosure.
- 409.9 Tower Removal Upon Termination of Use.
- 409.91 The owner of any telecommunication tower shall provide written notification to the Town's Building Official within thirty (30) days of the occurrence of either or both that the tower has changed ownership and use of all telecommunications antennas on the tower has ceased.
- 409.92 When the active use of a telecommunications tower ceases for a period of six (6) consecutive months, it shall be considered abandoned, and the owner of such tower shall remove same within ninety (90) days of receiving notice from the Town's Building Official, at the owner's expense.
- 409.10 Notification of Property Owners. For purposes of this ordinance, any applicant for the construction of a new tower of administrative decision shall require public notice to all abutting property owners and all property owners that are located within a five hundred (500) foot radius of the property on which the tower is proposed or a decision is sought. The applicant shall provide the Town's Building Official with documentation verifying compliance with this public notice requirement at the time that the applicant

submits an application for review by the Planning Commission or the Board of Zoning Appeals.

**410. Temporary, Mobile, Factory-Built, or Factory Assembled Structures.** It shall be unlawful to place any temporary structure, trailer, mobile structure (including, but not limited to: cars, vans, trucks, or buses), tents and tent-type structures, factory-built or factory assembled structures designed for conveyance after fabrication, either on their own wheels, flatbed truck, or other trailers on any residential, commercial, or industrial lot within the city for the purpose of assembly, or for business, educational, hazardous, institutional, mercantile, residential, or storage occupancies, except as noted herein.

1. Permitted Temporary Mobile, Factory-Built, or Factory Assembled Structures. The following structures shall be allowed subject to the provisions of this and other applicable sections of this ordinance and upon obtaining the proper permits from the building official.
  - a. Mobile homes located in approved mobile home parks or allowed district.
  - b. Manufactured/modular dwelling units and nonresidential prefabricated structures or modular building units manufactured off-site and transported to the point of use and installed on permanent concrete or masonry foundation as a finished building with permanent sewer or water connections. Such units shall bear the insignia of approval of the Tennessee Department of Commerce and Insurance or other approved inspection agency, as provided for in Title 58, Chapter 36, Part 3, T.C.A.
  - c. Temporary office and storage buildings located on approved construction sites in all zoning districts, provided they are removed upon completion of construction.



- d. Customary accessory storage buildings in approved residential locations.
  - e. Tents used by a person, firm, corporation, or group as an assembly occupancy for the purpose of a religious meeting, festival, fair, circus, or carnival for a limited time not to exceed thirty (30) days with proper permit procedure followed; additional permits may be granted for up to ninety (90) days in one calendar year.
  - f. Tents or temporary buildings used to sell fresh produce locally grown in Campbell County or Christmas trees in the C-2 and C-3 districts for a limited time not to exceed thirty (30) days with proper permit procedure followed; additional permits may be granted for up to ninety (90) days in one calendar year. Ample off-street parking shall be available near the tent or temporary building so that no vehicle is required to park in a public right-of-way or back into a public street or alley to obtain egress.
  - g. Tents or temporary buildings used to sell fireworks in the C-2 and C-3 districts for a limited time not to exceed thirty (30) days with proper permit procedure followed; additional permits may be granted for up to ninety (90) days in one calendar year. The tents or temporary buildings shall be inspected and approved by the Fire Chief or his designee before a permit is issued. Ample off-street parking shall be available near the tent or temporary building so that no vehicle is required to park in a public right-of-way or back into a public street or alley to obtain egress.
2. Establishment of New or Expansion of Existing Mobile Home and Recreational Vehicle Parks. Mobile homes and recreational vehicle parks shall be considered PUD's and the establishments or

expansion of these uses shall be subject to the provisions of Section 702.3 and other applicable sections of this ordinance.

411.      Standards for Self-Storage Facilities (Mini-Warehouses).  
The following standards shall apply to all self-storage facilities:

1.      Minimum Lot Size shall be 40,000 square feet.
2.      A site plan shall be submitted to the planning commission for approval.
3.      No self-storage facility shall exceed eighteen feet (18') in height.
4.      Internal lanes shall be at least twenty-four feet (24') wide when storage cubicles open onto one side of the lane only and at least thirty feet (30') wide when cubicles open onto both sides of the lane. Lanes shall be surfaced with asphalt or concrete unless porous concrete or other material (not gravel) is approved by the planning commission.
5.      A minimum of four (4) parking spaces are required unless the planning commission determines the need for additional parking in which case parking will be calculated at one (1) parking space per four hundred (400) square feet of storage area plus one (1) space per employee.
6.      Except for the sale or auction of items foreclosed upon by the owner of the facility, the sale or auction of items is prohibited.
7.      The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is specifically prohibited and all rental contracts shall include clauses prohibiting such storage.
8.      The servicing or repair of motor vehicles, boats, trailers, lawnmowers or any similar equipment is specifically prohibited.
9.      Recreational vehicles, boats and all operational vehicles may be stored outside in designated areas only. All other storage must be within enclosed structures.
10.     A planter buffer strip shall be provided along all perimeter lot lines abutting property zoned or used for residential purposes.

11. Perimeter commercial-grade fencing is required along exterior lot lines along the site.
12. The site plan shall contain a lighting plan. All lighting shall be oriented onto the site and away from adjacent property.
13. The establishment of a transfer and storage business is prohibited.
14. Fire protection shall be provided in compliance with the applicable Fire Code.
15. Signs are permitted in accordance with Section 408 of the zoning code.

412. Site Plan Requirements. The developer of any proposed commercial, industrial, public, semi-public, or multi-family residential use shall submit a detailed site plan to the Caryville Municipal Planning Commission for review and approval before the issuance of a building permit.

- A. All site plans shall be prepared and certified by a licensed engineer, landscape architect, architect, and/or surveyor, as may be appropriate, and in accordance with state law regarding the practice of these professions. Drawings shall be at a scale of not less than 1" = 20' for small tracts and 1" = 50' for large tracts.
  1. North point and scale.
  2. A location map identifying the surrounding land use including streets.
  3. Total acreage of the tract of land.
  4. Dimensions and bearings of all lot lines.
  5. Location of any existing and/or proposed structures.
  6. Location and size of all existing or proposed utility lines (i.e., water, sewer, gas, power) and any attendant facilities (i.e., lift station, pumphouse, etc.).
  7. Proposed landscape design (including location and type of vegetation, walkways, fencing, etc.).
  8. Proposed location of signage, type of signage (ground, wall, or roof) and dimensions of sign.
  9. Stormwater Drainage Plus including topographic contours every five feet (5') with a

certified drainage plan drawn up to account for the 25, 50, and 100-year Design Storm Event for a 24-hour period which shall not result in post-development stormwater discharges that exceed pre-development stormwater discharges.

10. Parking area design including a cross section of the pavement which shall utilize asphaltic concrete and an adequate base, construction type, ingress and egress, number of parking spaces, dimensions and design of those spaces.
11. Identification of any dedicated easements.
12. Location of loading zones, front, side and rear doors.
13. Plans for refuse collection, storage, and disposal.
14. Proposed location for use or storage of any toxic, volatile, or flammable materials.
15. Any site wholly or partially within a flood hazard area shall have the area clearly identified on the site plan.
16. Any other information deemed pertinent by the planning commission.

## Section 412 Site Plan Checklist

## NAME OF DEVELOPMENT:

The Caryville Municipal Planning Commission meets on the first Thursday of each month at 6:00 P.M. at the City Hall and is open to the public.

Submission deadline for each month's agenda is ten (10) days (including weekends) prior to the scheduled meeting date.

It is the applicant's responsibility to submit at least five (5) copies of the site plan to the City Hall for placement on the Caryville Municipal Planning Commission's agenda. Site plan requirements are applicable to multi-family, public and semi-public, commercial and industrial uses only. Copies of the site plan regulations are contained within the Caryville Zoning Ordinance and available at the City Hall.

CHECKLIST FOR SITE PLAN REVIEW & APPROVAL<sup>1</sup>

SITE PLAN REQUIREMENTS:	Applicant Yes-No- N/A	Staff Verification	Staff Comments
North point & scale			
Location Map (+ surrounding land use & streets)			
Total Acreage of Tract			
Dimensions & bearings of lot lines			
Location of existing & proposed structures			
Location of Existing & Proposed Utilities			
Proposed Landscaping Design			
Proposed Location, Type & Dimension of Signage			
Stormwater Drainage Plan			
Parking Design			
Dedicated Easements			

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<sup>1</sup>Requirements are applicable to the specific uses as noted. This checklist is for general reference purposes only and confirmation of specific and/or additional requirements are the responsibility of the applicant.

SITE PLAN REQUIREMENTS:	Applicant Yes-No- N/A	Staff Verification	Staff Comments
Loading Zone Locations			
Refuse Storage, Collection & Disposal Plans			
Location of any Toxic, Volatile or Flammable Materials			
Topography of existing & finished grades (if applicable)			
Flood Hazard Identification (if applicable)			

Is the applicant requesting any variances from the Caryville Zoning Ordinance?

No \_\_\_\_ Yes \_\_\_\_

If Yes, identify variance being requested.

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Zoning Ordinance variances granted: (Authorized by the BZA) No \_\_\_\_ Yes \_\_\_\_

Site Plan Approval Date: \_\_\_\_\_

Other Comments:

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(Ord. #2001-\_\_\_\_, Nov. 2001, as amended by Ord. #2007-10, Nov. 2007, Ord. #2012-02, April 2012, and Ord. #2012-11, Jan. 2013)

## **ARTICLE V. APPLICATION OF REGULATIONS**

- 501. Use.** Except as herein provided, no building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located. (Ord. #93-3, May 1993)
- 502. Street Frontage.** No dwelling shall be erected on a lot which does not abut on at least one street for at least forty (40) feet. Condominiums and townhouses, however, through the plan approval process for planned unit developments, may be excluded from this provision. (Ord. #93-3, May 1993)
- 503. Corner Lots.** The minimum width of a side yard along an intersecting street shall be fifty (50) percent greater than the minimum side yard requirements of the district in which the lot is located. (Ord. #93-3, May 1993)
- 504. One Principal Building on a Lot.** Only one principal building and its customary accessory buildings may hereafter be erected on any lot. Planned Unit Developments may be excluded from this provision by the planning commission during the planned unit development review process as set out in Section 406 of this ordinance. The addition of one (1) single-wide mobile home (see Section 321 for definition) on a lot with an existing single-family home may be excluded from this provision by the planning commission so long as it meets the following criteria:
1. The mobile home shall be placed on a lot in which the principal dwelling is a single family home of a member of the petitioner's immediate family or legal guardian;
  2. Units may not be rented, leased, or used for purposes other than the approved use and occupancy;
  3. Mobile homes are a permitted use in the district within which it is to be located; Except where owner is not available. As per council (approved 5/10/99 - Reg Mtg) sig. BJC
  4. The mobile home shall be required to connect to the public sewer system;

5. The lot meets the minimum lot size plus the square footage requirement per additional family, as required in Article VIII of this ordinance;
6. The existing single family home currently meets the required building setbacks for the district in which it is located, and the proposed mobile home shall meet the building setbacks as required in Article VIII of this ordinance;
7. The mobile home is placed at least twenty (20) feet from any other dwelling or building on the lot; and,
8. The location of two (2) or more mobile homes on any lot shall be considered a mobile home park subject to applicable provisions of this ordinance regarding mobile home park development. (Ord. #99-1, June 1999)

**505. Reduction of Lot Size.** No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this ordinance shall not be maintained. (Ord. #93-3, May 1993)

**506. Yard and Other Spaces.** No part of a yard or other open space required around any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building. (Ord. #93-3, May 1993)

**507. Conformity to Subdivision Regulations.** No building permit shall be issued and no building shall be erected on any lot within the municipality, unless the street giving access to said lot shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Caryville Municipal Planning Commission and such approval entered in writing on the plat by the secretary of the commission. (Ord. #93-3, May 1993)

**508. Height and Density.** No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards than are required or specified in the



regulations herein for the district in which it is located.  
(Ord. #93-3, May 1993)

**509. Accessory Building and Use Regulations.** Buildings and/or uses which are customarily incidental and subordinate in size and function to the principal use of a site are considered to be accessory buildings and/or uses and are permitted on the same lot with a principal use. The establishment of accessory buildings and/or uses shall be subject to the following provisions and other applicable provisions of this ordinance:

509.1            General Provisions:

509.11            No accessory structure shall be occupied or used unless the principal structure to which it is accessory is occupied or being used.

509.12            If an accessory building shares a structural wall with a principal building, it shall be deemed to be a part of the principal building and shall comply with the requirements of the ordinance applicable to a principal building, such as setback, height, etc.

509.2            Location:

509.21            Residential districts: Except for general farming structures, accessory buildings not exceeding one (1) story or fourteen (14) feet in height, and occupying less than twenty (20) percent of the required rear yard, may be located as close as five (5) feet to the rear property line. No accessory buildings or uses shall be permitted within any required front or side yard, except for perimeter fencing and such items as mail boxes, yard ornaments, and light fixtures located so as not to create a nuisance or safety hazard to neighboring property or the public.

509.22            Commercial and Industrial Districts: Accessory uses and structures shall be located so as to not create a nuisance to surrounding property. All accessory structures shall be

shown on a site plan and their location reviewed and approved by the planning commission prior to construction. (Ord. #93-3, May 1993)

## **ARTICLE VI. ESTABLISHMENT OF DISTRICTS**

For the purpose of this ordinance, the Town of Caryville, Tennessee, is hereby divided into ten (10) classes of districts as follows:

Residential	- R-1	District	- Low Density
Residential	- R-2	District	- Medium Density
Commercial	- C-1	District	- Central Business
Commercial	- C-2	District	- General Commercial
Commercial	- C-3	District	- Neighborhood Commercial
Commercial	- C-4	District	- Highway Commercial and Industrial
Industrial	- M-1	District	- Planned Industrial Park
Industrial	- M-2	District	- General Industrial
Industrial	- M-3	District	- Interstate Industrial
Floodplain	- F-1	District	- Floodplain

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the Town of Caryville, Tennessee," dated \_\_\_\_\_, and all amendments thereto, said map being a part of this ordinance and which is on file in the municipal building. Unless otherwise specified or indicated on the map, the boundaries of districts are: lot lines or the center lines of streets and alleys (or such lines extended); corporate limit lines; center lines of streams and other bodies of water; or a line running parallel to and midway between the main track of a railroad. Interpretations concerning the exact locations of certain district boundaries, shall be determined by the board of zoning appeals. (Ord. #93-3, May 1993)

## **ARTICLE VII. PROVISIONS GOVERNING USE DISTRICTS**

**701. R-1 (Low Density) Residential District.** It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district and to promote like activities. In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following uses are permitted:

701.1 Single-family residences.

701.2 Two-family residences, provided that a site plan showing the dimensions of the lot, building and all setbacks is approved by the planning commission.

701.3 Customary general farming.

701.4 Customary home occupations provided that all of the following conditions are met:

701.41 There is no external evidence of the occupation except that an advertising sign of no more than two (2) square feet in area may be allowed;

701.42 Not more than two persons who are not residents of the dwelling may be employed; and,

701.43 Not more than 30 percent of the total combined floor area of the entire premises is used for the occupation.

701.5 Publicly owned buildings and uses, schools offering general education, and churches, provided that:

701.51 The location of and site plans for these uses shall first be reviewed and approved by the planning commission;

701.52 The buildings are placed not less than fifty (50) feet from the side and rear property lines; and

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

701.53 The site plan shall show a landscaping plan which shall be approved by the planning commission.

701.6 Signs as regulated in Section 408 of this ordinance

701.7 Customary accessory buildings provided that they are located in rear yards and not closer than five (5) feet to any property line and occupy less than twenty (20) percent of the required rear yard. (See Section 509)

701.8 Uses permitted on review:

701.81 Day care centers approved by the Tennessee Department of Human Services.

701.82 Mobile homes (see Section 321 for definition). Mobile homes placed on a lot with another principal building shall be reviewed by the planning commission prior to the issuance of a permit for the purpose of determining if criteria set out in Section 504 of this ordinance can be met. Any request for variance from this section shall require a hearing by the Board of Zoning Appeals. (Ord. #93-3, May 1993, as amended by Ord. #99-1, June 1999)

**702. R-2 (Medium Density) Residential.** It is the intent of this district to provide areas for medium density residential development plus open areas where similar development is likely to occur. Professional services are permitted in the district provided that they meet applicable standards, are limited so as not to encourage general business activity and are located on a major arterial or collector street as noted on the zoning map. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site. In order to achieve the intent of the R-2 (Medium Density) Residential

District, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following uses are permitted:

702.1 Any use permitted in the R-1 Residential District

702.2 Multi-family dwellings, provided that a site plan showing the dimensions of the lot, buildings and all setbacks is approved by the planning commission

702.3 Mobile home parks provided that:

702.31 All mobile home parks meet the specific requirements shown in this section in this section as well as conforming to all of the general requirements set forth in the Planned Unit Development regulations of this ordinance;

702.32 The minimum size development site for any mobile home park shall be at least three (3) acres;

702.33 As it is originally platted and given final approval by the planning commission, no mobile home park shall be located closer than one thousand (1,000) feet to any other mobile home park, this distance being measured from the nearest exterior property line of any existing mobile home park to the nearest exterior property line of any future mobile home park; and,

702.34 The placement of each mobile home unit meets all of the following requirements:

702.341 The wheels are dismantled;

702.342 The unit is placed on a permanent masonry or concrete foundation;

702.343 The unit is fully skirted with materials approved by the planning commission; and,

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

702.344 The placement of each unit meets all other pertinent regulations of this ordinance and the Caryville Municipal Code.

702.4 Medical clinics and hospitals, funeral homes, fraternal organizations and clubs not operated for profit, nursing homes, offices for doctors, lawyers, dentists, architects, real estate agencies, insurance agencies and similar uses provided that:

702.41 These shall be located on arterial or collector streets;

702.42 The buildings shall be placed not less than twenty-five (25) feet from all property lines;

702.43 There is a planted buffer strip erected on side and rear property lines; and,

702.44 A site plan is reviewed and approved by the planning commission.

702.5 Existing buildings may be used provided that the provisions of this ordinance are met as closely as possible and that:

702.51 No parking shall be allowed in front yards; and

702.52 A site plan is reviewed and approved by the planning commission.

702.6 Uses permitted on review:

702.61 Day care centers approved by the Tennessee Department of Human Services.

702.62 Mobile homes (see Section 321 for definition). Mobile homes placed on a lot with another principal building shall be reviewed by the planning commission prior to the issuance of a permit for the purpose of determining if criteria set out in Section 504 of this ordinance can be met. Any request for variance from this section shall require a hearing by the Board of Zoning Appeals. (Ord. #93-3, May 1993, as amended by Ord. #99-1, June 1999, and Ord. #2003-03, Nov. 2003)

**703. C-1 (Central Business) District.** It is the intent of this district to provide a mixture of business, residential, cultural, recreational and governmental services within a compact, pedestrian friendly area. These regulations are designed to primarily encourage commercial activities with public and semi-public facilities which serve the general public and incidental residential accessory uses. In order to achieve the intent of the C-1 (Central Business) District, site plans shall be required for all new non-residential construction. These site plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping, and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

- 703.1 Stores and shops conducting retail business
- 703.2 Personal, business, and professional services, except for the following: junkyards, auto wrecking yards, salvage yards, auto repair garages, or other similar uses
- 703.3 Publicly owned buildings and uses
- 703.4 Semi-public uses
- 703.5 Lodges and clubs, hotels and motels, restaurants and similar services
- 703.6 Signs as regulated in Section 408 of this ordinance
- 703.7 Accessory structures clearly incidental to the principal use
- 703.8 Uses permitted on review:



703.81 Accessory dwelling units within the same principal building of a non-residential permitted principal use in accordance with the following:

1. Adequate off-street parking is collectively provided for each use or remote parking approved upon review by the planning commission.
2. A minimum square footage per dwelling unit of 650 square feet for one-bedroom, 800 square feet for two-bedroom and 1,000 square feet for a three-bedroom is provided.
3. The proposed use is in conformance with all municipal and fire codes. (Ord. #93-3, May 1993, as amended by Ord. #2003-03, Nov. 2003, and Ord. #2011-04, Dec. 2011)

**704. C-2 (General Business) District.** It is the intent of this district to establish a business area that encourages the grouping of compatible business uses, reduces traffic congestion, and maintains the aesthetic characteristics of the community. In order to achieve the intent of the C-2 (General Business) District, site plans shall be required for all new construction. These site plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping, and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

Prior to issuance of the building permit, the site plans shall be reviewed and approved by the planning commission, and if such development will impact a watershed area, the site plan must also be reviewed and approved by the Campbell County Soil Conservation District. Said reviews are to determine if such developments are consistent with the comprehensive planning

program of the Town of Caryville. In order to achieve the intent of this district, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following uses are permitted:

- 704.1 Any use permitted in the C-1 (Central Business) District
- 704.2 Automobile and mobile home sales
- 704.3 Places of amusement and assembly
- 704.4 Funeral homes
- 704.5 Travel trailer parks
- 704.6 Wholesale businesses, warehouses, and storage yards and buildings, except for the following: auto wrecking yards, junkyards, salvage yards, or any other activities which, in the opinion of the planning commission, would cause injurious or obnoxious noise, fire hazards or other objectionable conditions
- 704.7 Auto repair garages and similar operations
- 704.8 Hospitals
- 704.9 Gasoline service stations provided that all structures shall be placed not less than twenty (20) feet from all property lines. Points of ingress and egress shall be not less than fifteen (15) feet from intersection of street lines
- 704.10 Accessory structures clearly incidental to the principal use
- 704.11 Signs as regulated in Section 408 of this ordinance (Ord. #93-3, May 1993, as amended by Ord. #2003-03, Nov. 2003)

**705. C-3 (Neighborhood Business) District.** It is the intent of this district to establish business areas to serve surrounding residential districts. The regulations are intended to discourage strip commercial development and encourage grouping of uses in which parking and traffic congestion is reduced to a minimum. In

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

order to maintain and enhance the characteristics of the community and achieve the intent of the C-3 (Neighborhood Business) District, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

Prior to issuance of a building permit, the site plans shall be reviewed and approved by the planning commission, and if such development will impact a watershed area, the site plan must also be reviewed and approved by the Campbell County Soil Conservation District. Said reviews are to determine if such developments are consistent with the comprehensive planning program of the Town of Caryville. In order to achieve the intent of this district, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following uses are permitted:

- 705.1 Shopping centers provided they shall conform to all requirements of the Planned Unit Development regulations
- 705.2 Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, dry cleaners, laundromats and other laundry pick up stations, restaurants, and similar uses
- 705.3 Gasoline service stations provided that all structures and pump islands shall be placed not less than twenty (20) feet from all property lines. Points of ingress and egress shall be not less than fifteen (15) feet from intersections of street lines

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

- 705.4 Professional offices and banks
- 705.5 Signs as regulated in Section 408 of this ordinance
- 705.6 Accessory structures clearly incidental to the permitted use
- 705.7 Uses permitted on review:
  - 705.71 Any use which, in the opinion of the planning commission, is clearly of the same general character as the above uses and supports local residential districts (Ord. #93-3, May 1993, as amended by Ord. #2003-03, Nov. 2003)

**706. C-4 (Highway Commercial and Industrial) District.** It is the intent of this district to establish a highway interchange which shall provide for the establishment of certain commercial and industrial developments and discourage congestion caused by local traffic patterns. The district regulations are intended to encourage the types of commercial and industrial activities which are most closely associated with and dependent upon interstate highway interchanges, and, to ensure that all of the development in this district complies with these district regulations, site plans for all commercial and industrial activities shall be required. These site plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping, and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

Prior to issuance of the building permit, the site plans shall be reviewed and approved by the planning commission, and if such development will impact a watershed area, the site plan must also be reviewed and approved by the Campbell County Soil Conservation District. Said reviews are to determine if such

developments are consistent with the comprehensive planning program of the Town of Caryville. In order to achieve the intent of the C-4 (Highway Commercial and Industrial) District, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following regulations shall apply:

706.1 Permitted Uses and Structures:

706.11 All uses permitted in the M-1 and M-2 (Industrial) Districts, except for the following: auto wrecking yards, junkyards, salvage yards or any other activities which, in the opinion of the planning commission, would cause injurious or obnoxious noise, fire hazards, or other objectionable conditions

706.12 All uses permitted in any business district are permitted

706.2 Uses permitted on review (Special Exceptions):

706.21 Self-Storage Facilities (Mini-Warehouses), in accordance with Section 411

706.3 Access: Access requirements shall be the same as those of the Tennessee Department of Transportation regulations for zoned commercial or industrial areas.

706.4 Off-street parking as regulated in Section 402 and 403 of this ordinance. (Ord. #93-3, May 1993, as amended by Ord. 97-1, May 1997, Ord. #2003-03, Nov. 2003, and Ord. #2012-02, April 2012)

**707. M-1 (Planned Industrial Park) District.** It is the intent of this district to create specific light industrial areas which can be located between general industrial areas and residential areas, or in locations which are served by major roads but are not feasible for general industrial developments due to their proximity to residential districts. The requirements for this district are designed to encourage light industrial developments which provides for open space, landscaping and adequate parking and is compatible with surrounding or abutting residential districts. In

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

order to achieve the intent of the M-1 (Planned Industrial Park) District, site plans shall be required for all new construction. These site plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping, and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission, and if such development will impact a watershed area, the site plan must also be reviewed and approved by the Campbell County Soil Conservation District. Said reviews are to determine if such developments are consistent with the comprehensive planning program of the Town of Caryville. In order to achieve the intent of the M-1 (Planned Industrial Park) District, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following uses are permitted:

- 707.1      Limited assembly or light manufacturing uses, provided all assembly and manufacturing uses conduct their primary activities entirely within enclosed buildings and do not emit obnoxious dust, smoke, odors, fumes or excessive noise levels.
- 707.2      Retail outlets auxiliary to or directly serving the tenants of the industrial park
- 707.3      Research, experimental, or testing laboratories

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

- 707.4 Assembly facilities for electrical appliances, electronic instruments and devices, radios, phonographs, and other like products
  - 707.5 Manufacturing facilities for small parts such as coils, condensers, transformers, and crystal holders
  - 707.6 Utility sub-stations
  - 707.7 Facilities for the manufacturing, compounding, processing, packaging, treatment, or fabrication of ceramics, cosmetics, clothing, jewelry, instruments, optical goods, pharmaceuticals, and toiletries
  - 707.8 Signs as regulated in Section 408 of this ordinance
  - 707.9 Other uses of the same general character as those listed above which are deemed appropriate by the planning commission.
  - 707.10 Uses permitted on review (Special Exceptions):
  - 707.11 Self-Storage Facilities (Mini-Warehouses), in accordance with Section 411. (Ord. #93-3, May 1993, as amended by Ord. #2003-03, Nov. 2003, and Ord. #2012-02, April 2012)
- 708. M-2 (General Industrial) District.** It is the intent of this district to provide for areas which the principle use of the land is for manufacturing, processing, assembling, fabrication of materials, warehousing, or storage. The requirements for this district are designed to encourage general and heavy industrial development as opposed to the light manufacturing uses allowed in the M-1 (Planned Industrial Park) District, and, to ensure that all of the development in this district complies with these district regulations, site plans for all industrial activities shall be required. These site plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping, and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the

assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission, and if such development will impact a watershed area, the site plan must also be reviewed and approved by the Campbell County Soil Conservation District. Said reviews are to determine if such developments are consistent with the comprehensive planning program of the Town of Caryville. In order to achieve the intent of the M-2 (General Industrial) District, as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following uses are permitted:

- 708.1      Retail outlets auxiliary to ro directly serving the tenants of the industrial park
- 708.2      Storage yards and buildings and similar uses
- 708.3      Terminals
- 708.4      Warehouses
- 708.5      Wholesale businesses
- 708.6      Any industry which does not cause injurious or obnoxious noise, fire hazards, or other objectionable conditions as determined by the planning commission
- 708.7      Signs as regulated in Section 408 of this ordinance
- 708.8      Other uses of the same general character as those listed above which are deemed appropriate by the planning commission
- 708.9      Uses permitted on review (Special Exceptions):

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<sup>1</sup>The zoning map is of record in the office of the city recorder.



- 708.91 Scrap or salvage yards, provided that an opaque fence, the minimum height of which shall be at least eight (8) feet, shall be constructed around the perimeter of such operations
- 708.92 Automobile wrecking yards and junkyards, provided that an opaque fence, the minimum height of which shall be a least eight (8) feet, shall be constructed around the perimeter of such operations
- 708.93 Screening and landscaping, as approved by the planning commission, shall be required in all yards and open spaces around buildings, and maintained in a neat condition.
- 708.94 Self-storage Facilities (Mini-Warehouses), in accordance with Section 411.
- 708.95 Distilleries, Micro-Distilleries, Micro-Breweries, BrewPubs, Wineries and Micro-Wineries provided:
1. Submittal and approval of a site plan (if applicable) in accordance with Section 412.
  2. No such operation or selling of high alcohol content beverages will be sold within three hundred feet (300') of a school, church or daycare or public park.
  3. Approval and issuance of a Special Use Permit (if applicable) specifying the conditions of approval;
  4. Approval by the water and sewer authorities for such operation;
  5. Approval by all applicable state and federal agencies authorized to regulate wineries;
  6. Compliance with all zoning requirements of the Caryville Zoning Ordinance. Section 412 will be the standard for the review process.
  7. Tasting room and retail sales area must be located within the same building.
  8. Compliance with all other city codes pertaining to alcohol. (Ord. #93-3, May 1993, as amended by Ord. #2003-03, Nov. 2003, Ord. #2012-02, April 2012, and Ord. #2013-08, Dec. 2013)

**709. M-3 (Interstate Industrial) District.** It is the intent of this district to establish a new industrial area which shall provide for the establishment of certain industrial developments which conform to environmental and aesthetic requirements and also discourage congestion caused by local traffic patterns. The district regulations are intended to encourage the types of industrial activities normally associated with and dependent upon interstate highway accessibility and planned industrial developments. To ensure that all of the development in this district complies with these district regulations, site plans for all industrial activities shall be required. These site plans shall include: the proposed location of all structures including signs, off-street parking provisions, location of all points of ingress and egress, location and size of all existing and proposed utilities, landscaping, and easements, and any other plans deemed pertinent. A certified plan for stormwater drainage for all new developments and redevelopments greater than one-half acre in size shall be included with the site plan. This certified plan shall identify all easements, drainage structures including size/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a ten (10) year, twenty-four (24) hour storm event shall be calculated for pre-development and post development. The amount of runoff shall not be increased and shall be accommodated on site.

Prior to issuance of the building permit, the site plan shall be reviewed and approved by the planning commission, and if such development will impact a watershed area, the site plan must also be reviewed and approved by the Campbell County Soil Conservation District. Said reviews are to determine if such developments are consistent with the comprehensive planning program of the Town of Caryville. In order to achieve the intent of the M-3 (Interstate Industrial), as shown on the Zoning Map<sup>1</sup> of the Town of Caryville, Tennessee, the following regulations shall apply:

709.1 Permitted Uses and Structures:

709.11 Manufacturing, assembling, and warehousing for distribution purposes

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<sup>1</sup>The zoning map is of record in the office of the city recorder.

- 709.12 Transportation, utility, and service facilities
- 709.13 Retail sale of products manufactured or handled at wholesale by the owner or lessee
- 709.14 Recreation and training facilities providing service to the users of the transferred land
- 709.15 Temporary structures (see Section 709.3. below)
- 709.16 Signs as regulated in Section 408. of this ordinance.
- 709.17 Utility facilities necessary for the provision of public services and pollution control facilities associated with site use
- 709.18 Other industrial uses approved by the planning commission
- 709.19 Adult-Oriented Establishments as allowed in accordance with the Town of Caryville Municipal Ordinance 2003-01, Licensing and Regulation of Adult-Oriented Businesses and any subsequent amendments to said ordinance
- 709.20 Uses permitted on review (Special Exceptions):
- 709.201 Pain Management Clinics and Methadone Treatment Clinics provided:
1. Compliance with all applicable requirements of the Town of Caryville Municipal Code.
  2. Submittal of the appropriate license and certificate of need by the State of Tennessee.
  3. Map(s) showing existing land use and zoning within one-quarter (1/4) mile of the proposed site with an accompanying site plan.

4. The clinic or facility shall be located on and have access to a street classified as a Collector or Arterial according to the Caryville Major Road Plan.
5. The clinic or facility shall be located within five hundred feet (500') of a residential zoning district, a school, day care facility, park, church or hospital.
6. The clinic or facility shall not be located within one thousand feet (1,000') of any establishment that sells alcoholic beverages for either on- or off-premises consumption.
7. Off-Street Parking provided at one (1) space for each one thousand (1,000) square feet of floor space.
8. The site shall not be less than one thousand feet (1,000') from any other methadone treatment clinic or facility.

709.202 Self-Storage Facilities (Mini-Warehouses), in accordance with Section 411.

709.2 Signs as regulated in Section 408. of this ordinance.

709.21 Temporary or permanent residential uses

709.22 Wrecking, junk, commercial waste processing and salvage yards, and similar activities

709.23 Manufacture of radioactive materials

709.24 Miscellaneous noxious matter and activities as defined in this ordinance

709.25 Any other purpose or activity which is not expressly permitted in Section 709.1. above or approved by the planning commission is prohibited

709.3 Temporary Structures: No temporary structures shall be installed or maintained on any lot without the approval of the planning commission, except such as are necessary and incidental to any construction activity. All applications for approval of any temporary structure shall include and shall contain a specific date prior to which it will be removed.

709.4 Maximum Site Coverage: Buildings and accessory buildings, loading and unloading areas, and parking areas shall not cover more than seventy-five (75) percent of the lot, or as otherwise determined by the planning commission, and no building or accessory facilities above ground shall extend beyond the building setback lines into the setback areas.

709.5 Required Setbacks:

709.51 The minimum distance structures shall be set back from the right-of-way line of streets or front lot lines is:

709.511 Principal streets (Arterials and Major Collectors) Fifty (50) feet

709.512 Secondary streets (Minor Collectors and Local Streets) - Thirty (30) feet

709.513 Side and rear setback requirements - Twenty-five (25) feet, provided that if more than one lot shall be owned by one person or entity and in the improvement of such lot a building shall be erected on more than one lot, then the side setback requirement on the interior lot line or lot lines shall be waived.

Provided, further, that if a part of the lot shall be sold before the approved principal building is erected, the line between the part sold and the part retained shall be the lot line to which the setback requirement shall apply.

709.52 No rear yard setback shall be required where a lot abuts on a railroad or rail spur line.

709.53 Where easements or rights-of-way have been granted to the Southern Railway Company, its successors or assigns, no structures shall be constructed on said easement or right-of-way or any part thereof except with written consent of the planning commission and the Southern Railway Company, its successors, or assigns.

709.6 Building Height: Within the lot lines, the height of buildings may be equal to the horizontal distance from the nearest lot line. In no event shall the height of any building exceed one hundred (100) feet above finished grade, measured from the average elevation of the finished lot grade at the front of the building to the roofline.

However, structures such as towers, tanks, fire or parapet walls, skylights, communication masts, flagpoles, chimneys, penthouses for elevator equipment, stairways, ventilating fans, or similar equipment or similar structures may exceed this height, provided that such structures are located no closer to the nearest property line than a distance equal to their own height plus five (5) feet.

709.7 Construction and Materials: All industrial buildings and accessory buildings shall be constructed so as to conform to normally acceptable design standards outlined in the Standard Southern Building Code. The exterior of the front wall and the side walls shall be attractively finished and aesthetically appealing, and buildings located on corner lots shall have the side wall which faces the street finished in a manner similar to that of the front wall.

709.8 Underground Utilities and Auxiliary Equipment: No outside pipe, conduit, cable, line, or the like for water, gas, sewage, drainage, or steam service shall be installed or maintained upon any lot above the surface of the ground, except for hoses and moveable pipes used for irrigation or other purposes. All auxiliary machinery, equipment, or facilities used on any lot in connection with any such utilities or services shall be located upon any lot only in such manner and upon such conditions as may be approved by the planning commission.

709.9 Parking:

709.91 For each building constructed, there shall be provided and constructed paved parking areas so as to provide dust-free, all-weather surfaces according to plans approved as specified herein and maintained thereafter in good condition. Each parking area shall be striped to identify individual spaces. Such parking areas shall be attractively landscaped and conform to approved landscaping techniques.

709.92 The number and the specific location of parking spaces required for each lot shall be as designated in plans submitted for each lot and approved in the manner described in this section.

709.10 Loading:

709.101 All provisions for vehicle loading shall be provided on the lot with no on-street vehicle loading permitted.

709.102 All unloading and loading facilities, including truck and equipment parking and maneuvering space, shall be constructed entirely within the building setback lines.

709.103 Vehicle loading shall be confined to the rear and sides of buildings not adjacent to principal streets. Loading areas shall be visually screened from all streets and thoroughfares in a manner approved by the planning commission.

709.104 All loading areas shall be paved.

709.11 Outdoor Storage and Service Operations: Outdoor storage yards and service operations of any kind shall be visually screened from public view and all streets, with suitable permanent-type fencing and/or landscaping in a manner approved by the planning commission. No outside storage shall extend above the top of such screening. Said storage and service operations shall be confined to the rear two-thirds of the lot and within the required building setback lines.

709.12 Streets and Roads: Streets and roads shall be designed in accordance with acceptable engineering practice and

specification standards of the American Association of Highway and Transportation Officials and constructed in accordance with the Tennessee Department of Transportation specifications for bridges and highways.

709.13 Environmental Controls Applicable to Each Lot:

709.131 All uses expressly permitted shall be allowed on any lot, provided that such use, in the opinion of the planning commission, shall not cause injurious or obnoxious noise, fire hazards or other objectionable conditions.

709.132 No use of any lot may be established, maintained, or permitted of any operation thereon which does not meet these standards or any regulations of any public body having jurisdiction. Moreover, all reclamation activities, water retention basins and watershed/drainage patterns shall conform to Office of Surface Mining, Reclamation and Enforcement (OSMRE) regulations.

709.14 Solid Waste: All improvements on any lot shall be kept in a safe, clean, neat and sanitary condition and shall comply in all respects with all government health, fire, and police requirements. Each lot owner or lessee shall remove at its expense any solid waste of any character which may accumulate on said lot.

During construction of improvements on any lot, the owner or lessee thereof shall keep the site free of unsightly accumulations of solid waste and construction materials; and trailers, shacks, and the like employed in connection with such construction shall be kept in a neat and orderly manner.

Solid waste materials shall be permanently disposed of in such a way as not to pollute the air or surface runoff or cause odors or an unsightly appearance. The handling, storage, transport, and disposal shall comply with regulations promulgated by both the Tennessee Department of Public Health (Division of Solid Waste Management - Outdoor Refuse) and those of the Caryville - Jacksboro Utility



Commission. On-site waste storage facilities shall be visually screened from public view and from all streets, and shall have suitable landscaping around such facilities.

- 709.15      Liquid Waste: All discharges shall conform to the requirements set forth in the Caryville Sewer Use Ordinance<sup>1</sup> and all facilities shall be required to connect to the Caryville Sewer System.
- 709.16      Air Pollution: No lot operation, or combination of operations, shall emit any solid, liquid, or gaseous matter that is at any point in concentrations or amounts that are noxious, toxic, or corrosive and which will endanger the health, comfort, or safety of persons or which will have a tendency to cause injury or damage to property, business, or vegetation, or which are contrary to regulations promulgated by the Tennessee Department of Public Health, Division of Air Pollution Control to govern air quality.
- 709.17      Fire: The manufacture, transportation, use, and storage of all materials shall be conducted in accordance with accepted standards for safety and fire prevention. Such standards shall include the National Fire Code and the appropriate standards of the American Petroleum Institute, the Manufacturing Chemists Association, and other organizations that promulgate standards of good practice. No flammable liquids shall be discharged into the public sewage and treatment system.
- 709.18      Explosive materials: The manufacture of materials or products which decompose by detonation is prohibited (including but not limited to all primary, high, and blasting explosives, unstable organic compounds, and strong oxidizing agents in concentrations greater than 35 percent). The utilization of these materials or products in manufacturing processes is permitted only when authorized by the proper authority, and no storage is permitted except such accessory storage as may be authorized for use in the manufacturing process or other production. In any case,

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<sup>1</sup>Municipal code reference  
Sewer use: title 18, ch. 3.

such storage shall be in accordance with the rules and regulations governing explosives promulgated by the appropriate State or local authority having jurisdiction.

709.19     Odorous matter: No lot operation shall release odorous matter in such quantities as to become a nuisance or source of unreasonable discomfort at any point beyond the lot line.

709.20     Noise: Noise radiated from any operation shall not cause sound levels greater than the following when measured at the boundary of the industrial park:

709.201     Daytime (7:01 a.m. to 9:59 p.m.) – 60dB(a)

709.202     Nighttime (10:00 p.m. to 7:00 a.m.) – 55dB(a)

709.203     Distilleries, Micro-Distilleries, Breweries, Micro-Breweries, BrewPubs, Wineries and Micro-Wineries provided:

1.     Submittal and approval of a site plan (if applicable) in accordance with Section 412;
2.     No such operation or selling of high alcohol content beverages will be sold within three hundred feet (300') of a school, church or daycare or public park;
3.     Approval and issuance of a Special Use Permit (if applicable) specifying the conditions of approval;
4.     Approval by the water and sewer authorities for such operation;
5.     Approval by all applicable state and federal agencies authorized to regulate wineries;
6.     Compliance with all zoning requirements of the Caryville Zoning Ordinance. Section 412 will be the standard for the review process;
7.     Tasting room and retail sales area must be located within the same building;
8.     Compliance with all other city codes pertaining to alcohol.

709.21     Heat, movement of air and humidity: No operations, or combination of operations on any lot shall cause, as a result of normal activities, any undue or exaggerated effects on the temperature, motion, or humidity of the atmosphere.

- 709.22 Glare: Operations or processes producing intense glare shall be performed so that direct or sky-reflected glare is not discernable beyond the lot line. This restriction shall not apply to signs otherwise permitted by these regulations or to floodlighting of the building for aesthetic purposes provided that the intensity and brilliance of such lighting does not annoy adjacent property owners or impair the visibility on public thoroughfares.
- 709.23 Electromagnetic radiation and interference: No operation, or combination of operations, on any lot shall create a source of electromagnetic radiation that may be hazardous or that does not comply with the current regulations of the Federal Communications Commission regarding such sources. Further, said operations shall not cause abnormal degradation in performance of other electromagnetic radiators or receptors.
- 709.24 Animals: No livestock, poultry, or other animals shall be kept on any lot except as required for research and development activities or activities related to the practice of veterinary medicine.
- 709.25 Excavation/erosion control: Site grading and/or soil removal shall be minimized to preserve and protect the environment. Clearing operations shall be staged so that only land which will be developed promptly is stripped of protective vegetation. Mulch or temporary cover shall be applied whenever possible to reduce sheet erosion. Permanent vegetation, ground cover, and sodding shall be installed as soon as possible after site preparation. All natural features such as streams, topsoil, trees, and shrubs shall be preserved to the extent possible and incorporated into the final design layout of the proposed use. During periods of construction, weirs shall be installed in downslope drainage swales to control sedimentation.
- 709.26 Screening and landscaping: The setback areas of each lot shall be permanently screened from adjoining residential districts by a wall, opaque fence, evergreen hedge, and/or suitable enclosure of minimum height of seven (7) feet. Landscaping shall be provided along street frontage. Said landscaping shall first be reviewed and approved by the planning commission and shall be located between the curb

line and a line parallel to and (ten) 10 feet inside the property line. The planning commission may waive the requirement for screening enclosure and/or screening area if equivalent screening is provided by existing parks, parkways, recreation areas, or by topography or other natural conditions. (Ord. #93-3, May 1993, as amended by Ord. #97-1, May 1997, Ord. #2003-03, Nov. 2003, Ord. #2011-05, March 2012, Ord. #292-02, April 2012; and Ord. #2013-08, Dec. 2013)

- 710. F-1 (Floodplain) District.** The intent of the floodplain district is to place restrictions upon the use of lands which lie in floodways and floodplains within the town for the purpose of meeting federal regulations developed to implement the Flood Disaster Protection Act of 1973 as amended through October 1990, and thereby protect persons, property, and the community from dangers arising from periodic flooding. The floodplain district is shown on federal flood hazard boundary maps, which are identified in Article XIII, and on the zoning map as the F-1 District. The floodplain district is an overlay district, and all uses permitted in the underlying zoning district shall be allowed, subject to full compliance with the requirements of Article XIII. Flood Damage Prevention Provisions of this ordinance. (Ord. #93-3, May 1993)

## ARTICLE VIII

### AREA, YARD, AND HEIGHT REQUIREMENTS

For the purpose of this ordinance, area, yard, and height requirements for the district classifications of the Town of Caryville, Tennessee, Zoning Ordinance are hereby established as follows:

District	<b>Minimum Lot Size <u>Square Feet</u></b>		<b>Min. Width at <u>Bldg. Line</u><sup>a</sup></b>	<b>Minimum Yard Requirements <u>From Property Lines</u></b>			<b>Maximum Height of <u>Structures</u></b>
	Area in Square Feet	Square Feet Per Additional Family (feet)		Front Yard*	Side Yard* Rear Yard*		
R-1	15,000	5,000	80	30 ft.	10 ft. <sup>*c</sup>	20 ft.	35 ft.
R-2	15,000	3,000	80	30 ft.	10 ft. <sup>*c</sup>	20 ft.	35 ft.
C-1 <sup>b</sup>							
C-2 <sup>b</sup>				30 ft.	10 ft. <sup>*</sup>	25 ft.	35 ft.
C-3 <sup>b</sup>				30 ft.	10 ft. <sup>*</sup>	25 ft.	35 ft.
C-4				30 ft.	10 ft. <sup>*d</sup>	25 ft. <sup>d/e</sup>	35 ft.
M-1				25 ft.	30 ft. <sup>d</sup>	30 ft. <sup>d/e</sup>	35 ft.
M-2				30 ft.	25 ft. <sup>d</sup>	30 ft. <sup>d/e</sup>	35 ft.
M-3 <sup>f</sup>							

<sup>a</sup> Except on a cul-de-sac.

<sup>b</sup> Planned Unit Development requirements shall govern all shopping centers.

<sup>c</sup> Per Story.

<sup>d</sup> Width of either a side yard or a rear yard which abuts a residential district shall not be less than fifty (50) feet.

<sup>e</sup> Except for lots that rear property lines abut on a railroad or rail spur, where no rear setbacks are required.

<sup>f</sup> Per regulations set forth in Section 709 of this ordinance.

\* Along streams and other bodies of water outside of the F-1 District, minimum setbacks for all structures shall be fifteen (15) feet from the top bank of a stream or body of water. (Ord. #93-3, May 1993)

## **ARTICLE IX. EXCEPTIONS AND MODIFICATIONS**

- 901. Lot of Record.** Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of applicable zoning regulations does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the board of zoning appeals for a variance from the terms of this ordinance, in accordance with Article XI. Such lot may be used as a building site, provided however, that, the yard and other requirements of the district are complied with as closely, in the opinion of the board of zoning appeals, as possible. (Ord. #93-3, May 1993)
- 902. Adjoining and Vacant Lots of Record.** Whenever a plat of land consists of one or more adjacent lots with continuous frontage in single ownership which individually are less in width than is required by this ordinance, such groups of lots shall then be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this ordinance. (Ord. #93-3, May 1993)
- 903. Front Yards.** The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots. (Ord. #93-3, May 1993)
- 904. Exception on Height Limits.** The height limitations of this ordinance shall not apply to church spires, belfries, freestanding poles, towers, domes and other structures not designed or suitable for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, and aerials provided that each of these structures: (a) comply with the provisions of all other pertinent codes and ordinances; and (b) are located no closer to the nearest property line than a distance equal to their own height plus five (5) feet. (Ord. #93-3, May 1993)

## **ARTICLE X. ENFORCEMENT**

**1001. Enforcing Officer.** The provisions of this ordinance shall be administered and enforced by the Municipal Building Inspector. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this ordinance. (Ord. #93-3, May 1993)

**1002. Building Permit Required.** It shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building permit including a statement that the plans, specifications and intended use of such building in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the building inspector. (Ord. #93-3, May 1993)

**1003. Issuance of Building Permit.** In applying to the building inspector for a building permit, the applicant shall submit a sketch plan, or a site plan where required indicating the dimensions, shape, size, height, and location of all buildings to be erected, altered or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. No building permit shall be issued, however, for any use requiring the submission of a site plan until a site plan for such use has been reviewed and approved by the planning commission. If a building permit is refused, the building inspector shall state such refusal in writing with cause. (Ord. #93-3, May 1993)

**1004. Certificate of Occupancy.** Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform both to the provisions of the ordinance and to the statements made in

the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, giving with the cause for the refusal. No land or building hereafter erected or altered in its use, shall be used until such a certificate of occupancy has been granted. (Ord. #93-3, May 1993)

**1005. Penalties.** Any persons violating any provision of this ordinance shall be guilty of a Class C misdemeanor, and upon conviction shall be fined as provided for in state law. Each day such violation continues shall constitute a separate offense. (Ord. #93-3, May 1993)

**1006. Remedies.** In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who could be damaged by such violation, in addition to other remedies may institute injunction, mandamus, stop work order, or any other appropriate action in proceeding to prevent the occupancy or use of such building. (Ord. #93-3, May 1993)



## **ARTICLE XI. BOARD OF ZONING APPEALS**

**1101. Creation and Appointment.** A board of zoning appeals is hereby established in accordance with Section 13-7-205, Tennessee Code Annotated. The Caryville Municipal Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Caryville Municipal Planning Commission. (Ord. #93-3, May 1993)

**1102. Procedure.** Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record. (Ord. #93-3, May 1993)

**1103. Appeals: How Taken.** An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in whole or part on provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action for the hearing of the appeal, give notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney. (Ord. #93-3, May 1993)

**1104. Powers.** The board of zoning appeals shall have the following powers:

**1104.1**      **Administrative Review:** To hear and decide appeals where it is alleged by the appellant that there is error in any order, or requirement, permit decision, determination or refusal

made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this ordinance.

1104.2      Special Exceptions: To hear and decide special exceptions to this ordinance as set forth in Article IX.

1104.3      Variance: To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of adoption of this ordinance was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary situations or conditions of a piece property, the strict application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In granting a variance, the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance. Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. (Ord. #93-3, May 1993)

**1105. Action of the Board of Zoning Appeals.** In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to authorize any variance from the terms of this ordinance. (Ord. #93-3, May 1993)

**1106. Procedures for Variance Requests.** The purpose of a variance is to modify the strict application of the specific requirements of this ordinance in the case of an exceptionally irregular, narrow, or shallow legal lot of record, or in the case of other exceptional

physical conditions, whereby such strict application would deprive an owner of all reasonable use of his land.

1106.1     Application: After written denial of a permit, a property owner may make application for a variance. Said application can be obtained at Town Hall or from planning staff and shall indicate the nature of the request, the location and intended uses for the site, and the names of the adjacent property owners and existing land uses. The action taken by the board shall be indicated on the application and filed with the town.

1106.2     Notice to Property Owners. At least two weeks prior to the board's hearing of a variance request, person(s) requesting the variance shall submit to the Town Recorder a letter addressed to each owner of the property located adjacent to the applicant's property, including any owner of property separated from the property in question only by a right-of-way. The letters shall contain information adequate to notify such owners of the nature of the requested variance. Information relevant to the date, time, and location of the meeting of the Board of Zoning Appeals shall be included. Such letters shall be placed in unsealed, stamped, and addressed envelopes ready for mailing by the Town Recorder. The return address of the board or town must appear on the envelope, and a list of all the persons to whom the letters are sent must appear on the application. In addition, the town shall post a sign on the property stating the nature of the request and a telephone number where additional information may be obtained pertaining to the request. However, the sign shall be posted as a courtesy to the public, but not as a public notice. (as added by Ord. #2006-03, Aug. 2006)

## **ARTICLE XII. AMENDMENTS**

**1201. Procedures.** The board of mayor and aldermen may amend the regulations, boundaries, or any provision of this ordinance. Any member of the town board may introduce such amendment, or any official, board, or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to this ordinance. (Ord. #93-3, May 1993)

**1202. Approval by Planning Commission.** No change in or departure from the text or maps as certified by the planning commission shall be made unless such change or departure is first submitted to the planning commission and approved by it, or, if such change or departure is disapproved, its passage shall require the favorable vote of a majority of the entire membership of the board of mayor and aldermen. (Ord. #93-3, May 1993)

**1203. Procedures for Amendments to the Ordinance.** Upon the introduction of an amendment to this ordinance or upon the receipt of an application to amend this ordinance, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen of the requested change. Said notice shall be published in a newspaper of general circulation in the Town of Caryville, Tennessee. Said hearing by the board of mayor and aldermen shall take place no sooner than fifteen (15) days after the date of publication of such notice. In the case of a proposed rezoning, the town shall post a sign on the property, stating the nature of the request and a telephone number where additional information may be obtained. However, the sign shall be posted only as a courtesy to the public, and not as public notice.

**1203.1 Application.** Person(s) wishing to have the ordinance amended shall file an application to the planning commission which shall indicate the proposed amendment to the zoning document and/or amendment to the zoning map. Applications for rezonings can be obtained from the Town Recorder. The application shall show the location and existing uses on the site, the names of the adjacent property owners and existing land uses, and any other material pertinent to the request which the planning commission may require. The action taken by the planning commission and the board of mayor and aldermen shall be indicated on the application and filed with the town.

1203.2      Notice to Property Owners. At least two weeks prior to the meeting at which the request will be heard, person(s) requesting a rezoning must submit to the Chairman or Secretary of the planning commission a letter addressed to each owner of property located adjacent to the applicant's property, including property separated from the property in question only by a right-of-way. The letters shall contain information adequate to notify such owners of the intention to rezone the area for which the application is submitted, and when and where a meeting will be held before the planning commission. The letter shall also make it clear that the Board of Mayor and Aldermen will take final action on the request after it receives the recommendation of the planning commission. Such letters shall be placed in unsealed, stamped, and addressed envelopes ready for mailing by the Town Recorder. The return address of the planning commission must appear on the envelope, and a list of all persons to whom letters were sent must accompany the application. (Ord. #93-3, May 1993, as replaced by Ord. #2006-04, Aug. 2006)

**MUNICIPAL FLOODPLAIN ZONING ORDINANCE**  
**OF THE TOWN OF**  
**CARYVILLE, TENNESSEE**

**ARTICLE I.        STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**Section A. Statutory Authorization**

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Caryville, Tennessee, Mayor and Aldermen do ordain as follows:

**Section B. Findings of Fact**

1.     The Town of Caryville, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2.     Areas of the Town of Caryville, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3.     Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood proofed, or otherwise unprotected from flood damages.

**Section C. Statement of Purpose**

It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **Section D. Objectives**

The objectives of this Ordinance are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;

8. To maintain eligibility for participation in the NFIP.

## **ARTICLE II. DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

"Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.



"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" see "Special Flood Hazard Area". "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

"Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

"Exception" means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain

management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

"Existing Structures" see "Existing Construction".

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Floodprone Area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

"Flood-related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related Erosion Area" or "Flood-related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without

cumulatively increasing the water surface elevation more than a designated height.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on the Town of Caryville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - a. By the approved Tennessee program as determined by the Secretary of the Interior or
  - b. Directly by the Secretary of the Interior.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929 ; a vertical control used as a reference for establishing varying elevations within the floodplain, "New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots

on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year Flood" see " Base Flood".

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area

may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, Al-30, AE or A99.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, Al-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" the Tennessee Department of Economic and Community Development, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

"Structure" for purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which

have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

### **ARTICLE III. GENERAL PROVISIONS**

#### **Section A. Application**

This Ordinance shall apply to all areas within the incorporated area of the Town of Caryville, Tennessee.

#### **Section B. Basis for Establishing the Areas of Special Flood Hazard**

The Areas of Special Flood Hazard identified on the Town of Caryville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) , dated , along



with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

### **Section C. Requirement for Development Permit**

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

### **Section D. Compliance**

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

### **Section E. Abrogation and Greater Restrictions**

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

### **Section F. Interpretation**

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

### **Section G. Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the (City/Town) of (Locality), Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

### **Section H. Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the (City/Town) of (Locality), Tennessee from taking such other lawful actions to prevent or remedy any violation.

#### **ARTICLE IV. ADMINISTRATION**

##### **Section A. Designation of Ordinance Administrator**

Our Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

##### **Section B. Permit Procedures**

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage
  - a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - b. Elevation in relation to mean sea level to which any non-residential building will be flood proofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - c. A FEMA Flood proofing Certificate from a Tennessee registered professional engineer or architect that the

proposed non-residential flood proofed building will meet the flood proofing criteria in Article V, Sections A and B.

- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

## 2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When flood proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When flood proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or flood proofing level upon the completion of the lowest floor or flood proofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

**Section C. Duties and Responsibilities of the Administrator**

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.
7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been flood proofed, in accordance with Article IV, Section B.
8. When flood proofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation.

Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Caryville, Tennessee FIRM meet the requirements of this Ordinance.
11. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

## **ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **Section A. General Standards**

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

5. All electrical, heating, ventilation, plumbing, 'air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said nonconformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. Alf subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

## **Section B. Specific Standards**

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. Residential Structures

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

2. Non-Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood proofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood proofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to

elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

Non-Residential buildings located in all A Zones may be flood proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section B.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
  - 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
  - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
  - 3) louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such



partitions shall comply with the provisions of Article V, Section B.

4. Standards for Manufactured Homes and Recreational Vehicles
  - a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
  - b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
    - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
    - 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article I I ) .
  - c. Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of Article V, Sections A and B.
  - d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
    - 1) Be on the site for fewer than 180 consecutive days;
    - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
    - 3) The recreational vehicle must meet all the requirements for new construction.

## **5. Standards for Subdivisions and Other Proposed New Development Proposals**

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).

## **Section C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated**

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood

discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the Town of Caryville, Tennessee and certification, thereof.

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

**Section D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated**

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

**Section E. Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)**

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring

that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.

2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or flood proofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Town of Caryville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

**Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)**

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Article V, Sections A and B, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flow depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Article V, Section B.
2. All new construction and substantial improvements of non-residential buildings may be flood proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be flood proofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

**Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)**

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply. Section H. Standards for Unmapped Streams Located within the Town of Caryville, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.

## **ARTICLE VI. VARIANCE PROCEDURES**

### **Section A. Municipal Board of Zoning Appeals**

#### **1. Authority**

The Town of Caryville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

#### **2. Procedure**

Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Legislative Body.

### 3. Appeals: How Taken

An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of (amount) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than (number of) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

### 4. Powers

The Municipal Board of Zoning Appeals shall have the following powers:

#### a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Ordinance.

#### b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The Town of Caryville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic

structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.

- 3) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - a) The danger that materials may be swept onto other property to the injury of others;
  - b) The danger to life and property due to flooding or erosion;
  - c) The susceptibility of the proposed facility and its contents to flood damage;
  - d) The importance of the services provided by the proposed facility to the community;
  - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
  - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - I) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - j) The costs of providing governmental services during and after flood conditions including



maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

- 4) Upon consideration of the factors listed above, and the purposes of this Ordinance, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
- 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

#### **Section B. Conditions for Variances**

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$ 100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

### **ARTICLE VII. LEGAL STATUS PROVISIONS**

#### **Section A. Conflict with Other Ordinances**

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the Town of Caryville, Tennessee, the most restrictive shall in all cases apply.

**Section B. Severability**

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

**Section C. Effective Date**

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of the Town of Caryville, Tennessee, and the public welfare demanding it. (as added by Ord. #2006-05, Dec. 2006, and replaced by Ord. #2016-03, May 2016 *Ch3\_12-9-19*)

**ORDINANCE 2006-01**

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

**WHEREAS**, some of the ordinances of the City of Caryville are obsolete, and

**WHEREAS**, some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and.

**WHEREAS**, the Board of Mayor and Aldermen of the City of Caryville, 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 "Caryville Municipal Code," now, therefore:

**BE IT ORDAINED BY THE BOARD OF MAYOR AND  
ALDERMEN OF THE CITY OF CARYVILLE, TENNESSEE, THAT:**

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

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

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of said taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; and any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefore; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appear 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."<sup>1</sup>

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

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted there from.

**Section 7. Reproduction an amendment of code.** The municipal code shall be reproduced in loose-leaf form. The Board of Mayor and Aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

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<sup>1</sup>State law reference

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

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

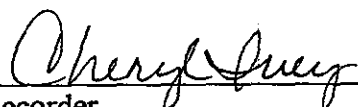
**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

**Section 10. Date of effect.** This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1<sup>st</sup> reading, September 11, 2006.

Passed 2<sup>nd</sup> reading, October 9, 2006.

  
Mayor

  
Recorder