THE

COLLEGEDALE

MUNICIPAL

CODE

# Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

# Change 8 July 19, 2021

# CITY OF COLLEGEDALE, TENNESSEE

# **MAYOR**

Katie Lamb

# **VICE MAYOR**

Tim Johnson

# **COMMISSIONERS**

Debbie Baker Phil Garver Ethan White

# **MANAGER**

Wayne Hines

#### **Preface**

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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

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

Steve Lobertini Codification Specialist

# ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

- 1. General power to enact ordinances: (6-19-101)
- 2. All ordinances shall begin, "Be it ordained by the City of Collegedale as follows:" (6-20-214)
- 3. Ordinance procedure
  - (a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.
  - (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided, that it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.
  - (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.
  - (d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (6-20-215)
- 4. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city. (6-20-218)

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## TITLE 1

# GENERAL ADMINISTRATION<sup>1</sup>

## CHAPTER

- 1. BOARD OF COMMISSIONERS.
- 2. MAYOR.
- 3. CITY MANAGER.
- 4. RECORDER.
- 5. CODE OF ETHICS.

#### CHAPTER 1

# BOARD OF COMMISSIONERS

## **SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Number of commissioners increased.
- 1-105. Date of city election and transitional elections.
- 1-106. Salary of mayor and commissioner.
- 1-101. <u>Time and place of regular meetings</u>. The board of commissioners shall hold regular monthly meetings at 6:00 p.m. on the first and third Mondays of each month at city hall. Whenever a regular board of commissioners meeting falls on a public holiday the meeting will be held on the next business day. (1977 Code, § 1-101, as amended by Ord. #293, June 1992)
- 1-102. <u>Order of business</u>. At each meeting of the board of commissioners the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

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.

<sup>&</sup>lt;sup>1</sup>Charter reference

- (1) Call to order by the mayor.
- (2) Invocation and the Pledge of Allegiance.
- (3) Roll call by the recorder.
- (4) Approval of previous meeting minutes.
- (5) Comments from citizens.
- (6) Unfinished business.
- (7) New business.
- (8) Request for reports from city administration/commissioners by the mayor.
- (9) Adjournment. (1977 Code, § 1-102, as amended by Ord. #583, July 2003, replaced by Ord. #672, April 2007, and Ord. #698, Sept. 2008, and amended by Ord. #1091, Feb. 2021 *Ch8\_07-19-21*)
- 1-103. <u>General rules of order</u>. (1) The rules of order and parliamentary procedure contained in <u>Robert's Rules of Order</u>, <u>Newly Revised in Brief</u> (2004), shall govern the transaction of business by and before the board of commissioners at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code.
- (2) Notwithstanding the adoption of <u>Roberts' Rules of Order</u> as specified in (1) above, absent a waiver of the same by a majority of the commissioners present at any meeting, the following time limits are imposed on the items listed below:
  - (a) Each commissioner is limited to a total of five (5) minutes discussion on any motion;
  - (b) Each commissioner is limited to a total of two (2) minutes of comments or discussion during his or her report time, which may not be extended by making a motion;
  - (c) Each speaker during the comments from citizens time is limited to five (5) minutes. (1977 Code, § 1-103, as amended by Ord. #698, Sept. 2008)
- 1-104. <u>Number of commissioners increased</u>. (1) The number of members composing the city commission of the City of Collegedale, Tennessee, shall be five (5), as provided in <u>Tennessee Code Annotated</u>, section 6-20-101, and with terms as set out therein.
- (2) This section shall take effect from and after the date of approval by a majority of the voters in the next regularly called city election following passage of this ordinance by the city commission, said procedure being in accord with that set out in the <u>Tennessee Code Annotated</u>, section 6-20-101. (1977 Code, § 1-104)
- 1-105. <u>Date of city election and transitional elections</u>. (1) At the city election to be held on the third Tuesday of March, 2011, the voters of the city shall elect two (2) commissioners who shall serve a transitional term as provided by <u>Tennessee Code Annotated</u>, §6-20-102(c)(2)(B) until the first meeting of the

board of commissioners following the general election to be held on the first Tuesday after the first Monday in November, 2014, or until their successors are elected and qualified.

- (2) At the general election to be held on the first Tuesday after the first Monday in November, 2014, and at the election held every four (4) years after that date, the voters of the city shall elect two (2) commissioners who shall serve four (4) year terms of office, or until their successors are elected and qualified.
- (3) At the city election to be held on the third Tuesday of March, 2013, the voters of the city shall elect three (3) commissioners who shall serve a transitional term as provided by <u>Tennessee Code Annotated</u>, §6-20-102(c)(2)(B) until the first meeting of the board of commissioners following the general election to be held on the first Tuesday after the first Monday in November, 2016, or until their successors are elected and qualified.
- (4) At the general election to be held on the first Tuesday after the first Monday in November, 2016, and at the election held every four (4) years after that date, the voters of the city shall elect three (3) commissioners who shall serve four (4) year terms of office, or until their successors are elected and qualified. (as added by Ord. #749, July 2010)
- 1-106. <u>Salary of mayor and commissioners</u>. (1) For the commissioners elected as provided in § 1-105(2) of the Collegedale Municipal Code at the general election of November, 2014, the salary shall be four hundred fifty dollars (\$450.00) per month.
- (2) For the commissioners elected as provided in § 1-105(4) of the Collegedale Municipal Code at the general election of November, 2016, and for all commissioners elected thereafter, the salary shall be four hundred fifty dollars (\$450.00) per month.
- (3) For the mayor elected by the commissioners for a two (2) year term beginning at the first meeting after the November, 2014 election as provided by Tennessee Code Annotated, § 6-20-201(a), and for all mayors elected thereafter, the salary shall be five hundred dollars (\$500.00). (as added by Ord. #991, June 2014)

# **MAYOR**

SECTION 1-201. Duties

1-201. <u>Duties</u>. The duties of the mayor are set out in sections 6-20-208, 6-20-209, 6-20-213 and 6-20-219 of the charter of the City of Collegedale.  $(1977 \text{ Code}, \S 1-201)$ 

# CITY MANAGER<sup>1</sup>

## SECTION

1-301. Duties of manager.

1-301. <u>Duties of manager</u>.<sup>2</sup> The city manager shall be the administrative head of the city government subject to the direction of the board of commissioners. In the capacity of administrative head, he shall appoint, remove and supervise the heads of the various departments of the city government except in those cases otherwise provided for by law. He shall attend meetings of the board of commissioners and make such recommendations to them as he may deem necessary. He shall serve as budget officer and purchasing agent for the city. (1977 Code, § 1-301)

For charter provisions outlining the appointment and removal of the city manager, see <u>Tennessee Code Annotated</u>, title 6, chapter 21, part 1, particularly section 6-21-101.

#### <sup>2</sup>Charter references

For specific charter provisions related to the duties and powers of the city manager, see the sections indicated:

Administrative head of city: 6-21-107.

Appointment and removal of officers and employees: 6-21-102, 6-21-108, 6-21-401, 6-21-601, 6-21-701 and 6-21-704, 6-22-101.

General and specific administrative powers: 6-21-108.

School administration: 6-21-801.

Supervision of departments: 6-21-303.

<sup>&</sup>lt;sup>1</sup>Charter reference

# $RECORDER^1$

- 1-401. To be bonded.
- 1-402. To keep minutes, etc.
- 1-403. To perform general clerical duties, etc.
- 1-401. <u>To be bonded</u>. The recorder shall be bonded in such sum as determined by the board of commissioners. (1977 Code, § 1-401, modified)
- 1-402. <u>To keep minutes, etc.</u> The recorder shall keep the minutes of all meetings of the board of commissioners and shall preserve the original copy of all ordinances in a separate ordinance book. (1977 Code, § 1-402)
- 1-403. To perform general clerical duties, etc. The recorder shall perform all clerical duties for the board of commissioners, for the city manager, and for the city which are not expressly assigned by the charter, this code, or the city manager 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 city shall provide. (1977 Code, § 1-403)

<sup>&</sup>lt;sup>1</sup>Charter references

For charter provisions outlining the duties and powers of the recorder, see <u>Tennessee Code Annotated</u>, title 6, chapter 21, part 4, and title 6, chapter 22. Where the recorder also serves as the treasurer, see <u>Tennessee Code Annotated</u>, title 6, chapter 22, particularly sec. 6-22-119.

## CODE OF ETHICS

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in nonvoting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations.
- 1-501. <u>Applicability</u>. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #671, Feb. 2007)
- 1-502. <u>Definition of "personal interest</u>." (1) For purposes of paragraphs (3) and (4), "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. #671, Feb. 2007)

- 1-503. <u>Disclosure of personal interest by official with vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #671, Feb. 2007)
- 1-504. 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 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. #671, Feb. 2007)
- 1-505. <u>Acceptance of gratuities, etc.</u> An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the 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. #671, Feb. 2007)
- 1-506. <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #671, Feb. 2007)
- 1-507. <u>Use of municipal time, facilities, etc.</u> (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #671, Feb. 2007)

- 1-508. <u>Use of position or authority</u>. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the 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. #671, Feb. 2007)
- 1-509. <u>Outside employment</u>. 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. #671, Feb. 2007)
- 1-510. <u>Ethics complaints</u>. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
  - (2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.
  - (b) The city attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.
  - (c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.
- (3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- (4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #671, Feb. 2007)

1-511. <u>Violations</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #671, Feb. 2007)

#### TITLE 2

#### BOARDS AND COMMISSIONS, ETC.

#### **CHAPTER**

- 1. PARKS AND RECREATION BOARD.
- 2. LIBRARY BOARD.

## CHAPTER 1

# PARKS AND RECREATION BOARD

- 2-101. Creation.
- 2-102. Membership and compensation.
- 2-103. Members; terms of members.
- 2-104. Powers and duties.
- 2-105. Organization and meetings.
- 2-101. <u>Creation</u>. There is hereby created a park and recreation advisory board. Said board shall have all duties and powers pursuant to <u>Tennessee Code Annotated</u>, title 11, chapter 24, and shall be an advisory board. (as added by Ord. #478, Jan. 1997)
- 2-102. <u>Membership and compensation</u>. The advisory board shall consist of five (5) persons, to be appointed by the mayor, to serve for terms of three (3) years or until their successors are appointed, except that the members of such board or commission first appointed shall be appointed for such terms that the term of one (1) member shall expire annually thereafter. The members of the board shall serve without pay. Vacancies in such board or commission occurring otherwise than by expiration of term shall be filled only for the unexpired term, and such appointment shall be filled by the mayor. (as added by Ord. #478, Jan. 1997, and replaced by Ord. #1072, Aug. 2019 *Ch7\_11-4-19*)
- 2-103. <u>Members</u>; terms of members. The following persons shall be appointed to serve on this board for terms outlined below:
  - (1) Wolf Jedamski (one year)
  - (2) Verle Thompson (two years)
  - (3) Phil Garver (three years)
  - (4) E. W. Dempsey (four years)
- (5) Rodney Keeton (five years) (as added by Ord. #681, Aug. 2007 and renumbered by Ord. #1072, Aug. 2019 *Ch7\_11-4-19*)

- 2-104. <u>Powers and duties</u>. The board shall study the operation and maintenance of city parks, the development of future sites, and other matters relating to the establishment and maintenance of the city's recreation systems and facilities. The board shall not be responsible for the supervision of staff, the hiring or dismissal of staff, the expenditure of public funds or the promulgation or enforcement of rules and regulations governing parks and recreation facilities or programs. However, the board may advise the city commission on any of these matters and act on behalf of the governing body, on a case by case basis, if so authorized by the city commission. (as added by Ord. #681, Aug. 2007, and renumbered by Ord. #1072, Aug. 2019 *Ch7\_11-4-19*)
- 2-105. Organization and meetings. The board shall elect from its voting 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 adopt rules, regulations, and by-laws for the performance and discharge of its duties and objectives. All officers, departments, committees, boards, and commissions of the city shall render reasonable and necessary assistance to the board. The board shall meet in regular session at least four (4) times a year, but may meet more frequently as necessary. Called meetings of the board shall be determined by the chairman or a majority of the voting membership. Notice of and conduct of said meetings shall be in accordance with the requirements of Tennessee Code Annotated, § 8-44-101, et seq. (as added by Ord. #681, Aug. 2007)

#### LIBRARY BOARD

- 2-201. Library board established.
- 2-202. Appointment and tenure of members; filling vacancies.
- 2-203. Removal from office; filling of vacancies.
- 2-204. Powers and duties of the library board.
- 2-205. Use of library.
- 2-201. <u>Library board established</u>. There is hereby established a library board which shall consist of seven (7) members, who shall serve without compensation. (as added by Ord. #782, Sept. 2011)
- 2-202. Appointment and tenure of members; filling vacancies. Three (3) members of the library board shall be appointed by the city commission for one (1) year, two (2) for two (2) years and two (2) for three (3) years, and their successors for a term of three (3) years. Not more than one (1) city commissioner shall serve on this board. Not more than five (5) of the members shall be of the same sex. Five (5) of the seven (7) members shall be City of Collegedale residents. Vacancies in the library board occurring otherwise than by normal expiration of a term shall be filled by the city commission for the unexpired portion of the term. (as added by Ord. #782, Sept. 2011)
- 2-203. <u>Removal from office</u>; <u>filling of vacancies</u>. Any member of the library board may be removed from office by majority vote of the city commission for failing to attend meetings of the board, for any other neglect of duties as such member or for any misconduct in office. (as added by Ord. #782, Sept. 2011)
- 2-204. Powers and duties of library board. The members of the library board shall organize by electing officers and adopting bylaws and regulations. Subject to any contract the city manager has recommended and the city commission has approved with a private contractor for the administration of the library, the board has the power to direct all the affairs of the library, including making and enforcing rules and regulations. Such board may receive donations, devises and bequests to be used by it directly for library purposes. The library board shall furnish to the state library agency such statistics and information as may be required, and shall make annual reports to the city manager who will forward the same to the city commission. Annually, in concert with any private contractor administering the library, the library board shall submit a budget to the city manager who shall evaluate the same and forward it to the city commission with his recommendation. All city tax funds and appropriate fees for library purposes, whether raised by bonds or taxation, shall be held by the

city manager or appropriate designee. Such funds may be disbursed when properly drawn upon by vouchers or requisitions. Proceeds from the sale of surplus books by the town library may be credited to such special fund in the discretion of the library board. All library accounts of every character and kind shall be audited annually by or under the supervision and direction of the city manager. (as added by Ord. #782, Sept. 2011)

2-205. <u>Use of library</u>. The Collegedale Public Library shall be free to the residents of the city; but the city commission in its discretion, and after consultation with the library board, extend the privilege and facilities of the library to persons residing outside the city upon such terms as it may deem proper. The library board shall have power to make and enforce rules providing penalties for loss of or injury to library property. (as added by Ord. #782, Sept. 2011)

#### TITLE 3

# MUNICIPAL COURT<sup>1</sup>

#### **CHAPTER**

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

#### CHAPTER 1

# CITY JUDGE

## **SECTION**

- 3-101. City judge.
- 3-102. Jurisdiction.
- 3-103. Popular election, term, salary, etc.

3-101. <u>City judge</u>. The officer designated by the charter to handle judicial matters within the city shall preside over the city court and shall be known as the city judge. (1977 Code, § 1-601)

For provisions of the charter governing the city judge and city court operations, see <u>Tennessee Code Annotated</u>, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:

City judge:

Appointment and term: 6-21-501.

Jurisdiction: 6-21-501. Qualifications: 6-21-501.

City court operations:

Appeals from judgment: 6-21-508.

Appearance bonds: 6-21-505. Arrest warrants: 6-21-504. Docket maintenance: 6-21-503.

Fines and costs:

Amounts: 6-21-502, 6-21-507.

Collection: 6-21-507. Disposition: 6-21-506.

<sup>&</sup>lt;sup>1</sup>Charter references

- 3-102. <u>Jurisdiction</u>. (1) <u>Violation of municipal ordinances</u>. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty not to exceed \$500.
- (2) <u>Violation of state laws</u>. The city judge shall also have the authority to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal laws of the state within the corporate limits of the city.
- 3-103. <u>Popular election, term, salary, etc.</u><sup>1</sup> (1) <u>Popular election</u>. At the next regular judicial election held in accordance with art. VII, § 5 of the Tennessee Constitution, and every eight years thereafter, the city judge shall be elected by the qualified voters of the city for a term of eight years. The city judge shall take office September 1 next following his or her election. However, the office of city judge during the interim period before the next regular judicial election held in accordance to art. VII, § 5 of the Tennessee Constitution shall be filled as follows:
  - (a) The board of commissioners shall appoint a city judge to serve until the next regular August general state election;
  - (b) At the next regular August general state election that takes place at least thirty (30) days after the effective date of this chapter, the qualified voters of the city shall elect a city judge to serve until the next regular judicial election held in accordance to art. VII, § 5 of the Tennessee Constitution.
- (2) <u>Qualifications</u>. The city judge shall be a resident of the City of Collegedale one year and a resident of Tennessee five years immediately preceding his election, at least 30 years old and licensed to practice law in Tennessee.
- (3) <u>Vacancies in office</u>. Vacancies in the office of city judge shall be filled by the board of commissioners for the unexpired portion of the term.

<sup>&</sup>lt;sup>1</sup>Ord. #630, March 2006, setting the compensation of the city judge is of record in the office of the city recorder.

#### COURT ADMINISTRATION

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, and costs.
- 3-203. Disposition and report of fines, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Electronic citation fee.
- 3-201. <u>Maintenance of docket</u>. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1977 Code, § 1-602)
- 3-202. <u>Imposition of fines and costs</u>. All fines, 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. (1977 Code, § 3-108)

- 3-203. <u>Disposition and report of fines, and costs</u>. All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of commissioners a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1977 Code, § 1-611)
- 3-204. <u>Disturbance of proceedings</u>. 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. (1977 Code, § 1-612)
- 3-205. <u>Electronic citation fee</u>. (1) A fee of five dollars (\$5.00) shall be collected on each citation for a violation of any traffic ordinance that results in a plea of guilty or nolo contendre or a judgment of guilty, for the purpose of funding the development and operation of an electronic citation system for the

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, § 8-21-401.

Collegedale Police Department. One dollar (\$1.00) of such fee shall be retained by the city court clerk and used for computer hardware purchases, usual and necessary computer related expenses, or replacement. Four dollars (\$4.00) of such fee shall be retained in a special fund designated for the Collegedale Police Department Electronic Citation Program and used for related expenditures, equipment, repairs, replacement, and training to maintain the electronic citation program.

(2) This ordinance adding this section shall take effect on August 4, 2019, upon the expiration of the effective period established by Ord. #997, the public welfare requiring it. (as added by Ord. #997, July 2014, and replaced by Ord. #1067, April 2019 *Ch7\_11-4-19*)

# WARRANTS, SUMMONSES, CITATIONS AND SUBPOENAS

#### SECTION

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Citations in lieu of arrest.
- 3-304. Issuance of subpoenas.
- 3-301. <u>Issuance of arrest warrants</u>. The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1977 Code, § 3-103)
- 3-302. <u>Issuance of summonses</u>. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or 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. (1977 Code, § 1-604)
- 3-303. <u>Citations in lieu of arrest</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 7-63-101, <u>et seq</u>., the board of commissioners appoints the building inspector special police officer having the authority to issue citations in lieu of arrest to any person who violates an ordinance of the City of Collegedale in his presence.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special office in whose presence the offense was committed shall immediately arrest the

<sup>&</sup>lt;sup>1</sup>State law reference

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

offender and dispose of him in accordance with <u>Tennessee Code Annotated</u>, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

3-304. <u>Issuance of subpoenas</u>. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1977 Code, § 1-605)

#### 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. (1977 Code, § 1-607)
- 3-402. <u>Appeals</u>. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) entire days thereafter, <sup>1</sup>Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond. (1977 Code, § 1-609)
- 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. (1977 Code, § 1-610)

Tennessee Code Annotated, section 27-5-101.

<sup>&</sup>lt;sup>1</sup>State law reference

#### TITLE 4

#### MUNICIPAL PERSONNEL

#### **CHAPTER**

- 1. SOCIAL SECURITY.
- 2. VACATIONS, SICK LEAVE AND HOLIDAYS.
- 3. PERSONNEL REGULATIONS.
- 4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
- 5. TRAVEL REIMBURSEMENT REGULATIONS.

#### CHAPTER 1

# SOCIAL SECURITY

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this city to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1977 Code, § 1-701)
- 4-102. <u>Necessary agreements to be executed</u>. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1977 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. (1977 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. (1977 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. (1977 Code, § 1-705)

# VACATIONS, SICK LEAVE AND HOLIDAYS

#### SECTION

- 4-201. Applicability of chapter.
- 4-202. Paid time off.
- 4-203. Leave records.
- 4-204. Holidays.
- 4-201. <u>Applicability of chapter</u>. This chapter shall apply to all full-time city officers and employees except those operating under the jurisdiction of a school, utility, or other separate board or commission. A full time officer or employee is one who works a minimum of 1800 hours per year for the city. (1977 Code, § 1-801)
- 4-202. <u>Paid time off</u>. (1) Paid time off (P.T.O.) may be used for absences for which the employee is to be paid. It is used for illness, personal time, holidays, vacations, etc.
- (2) P.T.O. starts accruing when an employee has been hired full time. P.T.O. stops accruing upon the day of termination.
- (3) Accrued paid time off accrues against actual time worked or leave time if comp time is used for leave and is based on the following schedule:

8% - 0-1 Year 10% - 2-10 Years 12% - 11-15 Years 14% - 16+

- (4) The philosophy of a paid time off program is to give an employee a break from his work so the he can return to his work in a refreshed condition. It is expected that the employee will take all 8 holidays and at least 5 days of vacation time each year.
  - (5) Part-time and temporary employees are not eligible for P.T.O.
- (6) P.T.O. will not be accrued on overtime, therefore, P.T.O. time base for accrual will not exceed 80 hours in any given pay period.
- (7) If there is no accrued P.T.O. the employee may not be paid for absences.
- (8) Fractions of a day off will be allowed if the time has been requested and properly scheduled.
- (9) A resigning employee must give two weeks notice and work out this notice before he/she can receive accrued P.T.O. No P.T.O. may be taken during this two-week notice.
- (10) Upon forced termination or death of employee, the employee or beneficiaries will be paid any balance of P.T.O. he/she may have accrued.

- 4-203. <u>Leave records</u>. The city manager shall cause to be kept, for each officer and employee, a record currently up to date at all times showing credits earned and leave taken under this chapter. (1977 Code, § 1-804)
- 4-204. <u>Holidays</u>. Except and in addition to such other holidays as may be from time-to-time declared by the board of commissioners, the following days shall be official holidays for employees of the City of Collegedale:

<u>Holiday Name</u> <u>Holiday Date</u>

New Year's Day

January 1st of each year

Good Friday Friday before Easter of each year

Memorial Day Last Monday in May of each year

Independence Day July 4th of each year

Labor Day First Monday in September of each

year

Thanksgiving Fourth Thursday in November of each

year and the following Friday

Christmas Day December 25th of each year

Employee's birthday Anniversary of employee's date of birth

## PERSONNEL REGULATIONS

- 4-301. Business dealings.
- 4-302. [Repealed.]
- 4-303. [Repealed.]
- 4-304. Political activity.
- 4-305. [Repealed.]
- 4-306. [Repealed.]
- 4-307. Strikes and unions.
- 4-308. Other rules and regulations.
- 4-301. <u>Business dealings</u>. Except for the receipt of such compensation as may be lawfully provided for the performance of his city duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the city. (1977 Code, § 1-901)
- 4-302. [Repealed.] (1977 Code, § 1-902, as repealed by Ord. #633, June 2006)
- 4-303. [Repealed.] (1977 Code, § 1-903, as repealed by Ord. #633, June 2006)
- 4-304. <u>Political activity</u>. City officers and employees may individually exercise their right to vote and, privately express their political views as citizens. However, no city officer or employee shall solicit political campaign contributions or engage in or actively participate in any city political campaign. These restrictions shall not apply to elective officials or law enforcement officers when they are not on city property, in uniform or on duty. (1977 Code, § 1-904)
- 4-305. [Repealed.] (1977 Code, § 1-905, as repealed by Ord. #633, June 2006)
- 4-306. [Repealed.] (1977 Code, § 1-906, as repealed by Ord. #633, June 2006)
- 4-307. <u>Strikes and unions</u>. No city officer or employee shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other city officer or employee to join any labor union which authorizes the use of strikes by government employees. (1977 Code, § 1-907)

4-308. <u>Other rules and regulations</u>. The board of commissioners may from time to time pass additional personnel rules and regulations which will be on file in the office of the recorder.

## OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

### SECTION

- 4-401. Establishment.
- 4-402. Program.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.
- 4-401. <u>Establishment</u>. In compliance with Public Chapter 561 of The General Assembly of the State of Tennessee for the year 1972, the City of Collegedale hereby establishes the "Occupational Safety and Health Program" for its employees. (1977 Code, § 1-1001)
- 4-402. <u>Program</u>. There is hereby created a safety and health program for employes.

Title: This chapter shall provide authority for establishing and administrating the Occupational Safety and Health Program Plan for the employees of The City of Collegedale.

Purpose: The board of commissioners, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
  - (a) Top management commitment and employee involvement;
  - (b) Continually analyze the worksite to identify all hazards and potential hazards.
  - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
  - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated,

<sup>&</sup>lt;sup>1</sup>See Appendix A for the plan of operation for the Occupational Safety and Health Program for the employees of the City of Collegedale.

adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

- (4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- (5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.
- (6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions of practices injurious to employee safety and health.
- (7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (1977 Code, § 1-1002, as replaced by Ord. #584, Aug. 2003, and further replaced by Ord. #633, June 2006)
- 4-403. <u>Coverage</u>. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Collegedale shall apply to all employees of each administrative department, commission, board, division, or other agency of the city whether part-time or full-time, seasonal or permanent. (1977 Code, § 1-1002, as replaced by Ord. #584, Aug. 2003, and further replaced by Ord. #633, June 2006)
- 4-404. <u>Standards authorized</u>. The occupational safety and health standards adopted by the board of commissioners are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972.<sup>1</sup> (as added by Ord. #584, Aug. 2003, and replaced by Ord. #633, June 2006)
- 4-405. <u>Variances from standards authorized</u>. The director may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by <u>Tennessee Code Annotated</u>, title 50. Prior to requesting such temporary variance, the director shall notify or serve notice to employees, their designated representatives, or

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.

interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the director shall be deemed sufficient notice to employees. (as added by Ord. #584, Aug. 2003, and replaced by Ord. #633, June 2006)

- 4-406. <u>Administration</u>. For the purposes of this chapter, building official is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer a plan. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #584, Aug. 2003, and replaced by Ord. #633, June 2006)
- 4-407. <u>Funding the program</u>. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the board of commissioners. (as added by Ord. #584, Aug. 2003, and replaced by Ord. #633, June 2006)

## TRAVEL REIMBURSEMENT REGULATIONS

- 4-501. Enforcement.
- 4-502. Travel policy.
- 4-503. Travel reimbursement rate schedules.
- 4-504. Administrative procedures.
- 4-501. <u>Enforcement</u>. The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these regulations. (Ord. #305, Aug. 1993)
- 4-502. <u>Travel policy</u>. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" 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.
- (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. #305, Aug. 1993)
- 4-503. <u>Travel reimbursement rate schedules</u>. 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. #305, Aug. 1993)

4-504. <u>Administrative procedures</u>. 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. #305, Aug. 1993)

## TITLE 5

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

## **CHAPTER**

- 1. MISCELLANEOUS.
- 2. REAL PROPERTY TAXES.
- 3. PRIVILEGE TAXES.
- 4. PURCHASING PROCEDURES.
- 5. DEBT POLICY.

### CHAPTER 1

### **MISCELLANEOUS**

### SECTION

- 5-101. Official depository for city funds.
- 5-102. Fiscal year.
- 5-103. Sealed bids required on purchases over \$10,000.
- 5-101. Official depository for city funds. The Pioneer Bank, Collegedale, Tennessee, is hereby designated as the official depository for all city funds.<sup>2</sup> (1977 Code, § 6-101, modified)
- 5-102. <u>Fiscal year</u>. The fiscal year for the City of Collegedale shall begin annually July 1st and end June 30th next. (1977 Code, § 6-102)
- 5-103. <u>Sealed bids required on purchases over \$10,000</u>. (1) The City of Collegedale shall require formal advertised sealed bids only on purchases greater than ten thousand dollars (\$10,000).
- (2) The city manager has authority to purchase up to three thousand five hundred dollars (\$3,500) limit without prior approval from the commission, provided evidence of thorough competitive price quotations are furnished to the commission. (Ord. # 275, June 1990, as replaced by Ord. #463, Oct. 1996)

Finance and taxation: title 6, chapter 22.

<u>Tennessee Code Annotated</u>, section 6-22-120 prescribes depositories for city funds.

<sup>&</sup>lt;sup>1</sup>Charter reference

<sup>&</sup>lt;sup>2</sup>Charter reference

## REAL PROPERTY TAXES

- 5-201. When due and payable.
- 5-202. When delinquent--penalty and interest.
- 5-201. When due and payable. Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1977 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. (1977 Code, § 6-201)

## PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. <u>Tax levied</u>. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (title 67, chapter 4, <u>Tennessee Code Annotated</u>) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the said act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (1977 Code, § 6-301)

5-302. <u>License required</u>. No person shall exercise any such privilege within the city 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. (1977 Code, § 6-302)

## PURCHASING PROCEDURES

## SECTION

- 5-401. Powers and duties of purchasing agent.
- 5-402. Written requisitions required.
- 5-403. Council approval of purchase unnecessary, when.
- 5-404. Expenditures requiring approval of the city manager.
- 5-405. Competitive bidding; exemptions.
- 5-406. Submitting and awarding bids.
- 5-407. Rental or lease expenditures.
- 5-408. Contracts requiring bonds.
- 5-409. Emergency purchases.
- 5-410. Adherence to provisions; individual liability.
- 5-411. Petty cash fund.
- 5-412. Certification of unencumbered balance required.
- 5-413. Exemption of fuel, fuel products and perishable commodities from public advertisement and competitive bidding requirements.
- 5-401. <u>Powers and duties of purchasing agent</u>. The city manager or his designee is hereby designated as the purchasing agent and shall possess the following powers and perform the following duties under the general supervision of the city manager:
- (1) He shall contract for and purchase all supplies, materials, equipment and services necessary for the conduct and operation of departments and agencies of the city.
- (2) He may transfer from one department or agency to any other departments or agencies such supplies, materials, and equipment or other personal property not needed by one but necessary to the conduct and operation of the other; or may sell any personal property belonging to the city which is recommended as surplus by the key manager of a department to the city manager, or by the city commission.
- (3) He shall have charge of and supervision over all storerooms and be responsible for distributing such supplies to the various departments.
- (4) He may, subject to the approval of the city commission, advertise for and enter into contracts for goods and services as needed.
- (5) He may establish standard specifications as to quantity and quality for all supplies, materials and equipment generally needed by the departments.
- (6) Any action relating to the acquisition or disposal of real property requires the approval of the city commission.

The city manager may enter into binding contracts on behalf of the city, without specific approval of the city commission, for routine purchases and matters not having substantial long term consequences. For the purpose of this

section, a matter does not have substantial long term consequences if it is a contract for a period of one (1) year or less. (as added by Ord. #786, Dec. 2011)

- 5-402. Written requisitions required. All purchases made under the provisions of this chapter shall be made pursuant to a written requisition from the head of the department, except for those purchases authorized by using a procurement card, petty cash, or fixed price agreement. (as added by Ord. #786, Dec. 2011)
- 5-403. Commission approval of purchase unnecessary, when. Where the amount of the requisition or voucher does not exceed the exemption allowed by state law for exemption from competitive bidding, approval by the city commission shall not be necessary for the issuance of a purchase order or payment of a voucher or the execution of a contract. In no event shall a requisition, voucher, or contract be split or divided into two (2) or more with the intent of evading the necessity of having competitive bids and/or the necessity of obtaining the approval of the city commission. (as added by Ord. #786, Dec. 2011)
- 5-404. Expenditures requiring approval of the city manager; spending limit of city manager. Whenever any requisition or voucher or contract calls for the expenditure of less than the maximum exemption allowed by state law for exemption from competitive bidding and is more than five hundred dollars (\$500.00), the issuance of a purchase order or the payment of a voucher or the award of a contract shall be subject to the approval of the city manager or his designee, and shall not be binding on or create any liability against the city until approved as such. The city manager will set the spending limits the key managers and other staff, not to exceed the spending limits imposed on the city manager by law. The city commission will set by separate action as necessary the spending limits of the city manager, not to exceed any amount allowed by law. (as added by Ord. #786, Dec. 2011)
- 5-405. Competitive bidding; exemptions. Whenever any requisition or voucher or contract calls for an expenditure exceeding the maximum amount allowed by state law, or contract for construction or remodeling of existing structures or sites calls for an expenditure exceeding the maximum amount allowed by state law for exemption from competitive bidding, there shall be competitive bids. At the direction of the purchasing agent and the city manager, notice for bids shall be advertised at least once in a general circulation newspaper at least fifteen (15) days prior to the time set for a public opening of bids. The purchasing agent may also issue written invitations to bid to dealers in the articles to be purchased in addition to, but not in lieu of, the advertisement required hereunder. However, secondhand equipment or equipment purchased from any federal, state or municipal agency, where it is

not practicable to take bids, may be purchased without taking bids, but such purchases shall be subject to the requirements of §§ 5-403 and 5-404. Also, items covered by federal or state government service contract prices may be exempted at the discretion of the purchasing agent and the city manager. (as added by Ord. #786, Dec. 2011)

- 5-406. <u>Submitting and awarding bids</u>. All bids shall be sealed and submitted to the purchasing agent on or before the specified time when such bidding is to be closed. All bids will be awarded by the city council unless otherwise designated by the city council. Recommendation of bids other than the lowest bids must be justified in writing. (as added by Ord. #786, Dec. 2011)
- 5-407. Rental or lease expenditures. The rental or lease of any equipment, materials or vehicles, where the expenditure for the rental or lease period does not exceed ten thousand dollars (\$10,000.00), or maximum allowed by state law, may be made by the head of any department. But where the expenditure is more than ten thousand dollars (\$10,000.00), for rental or lease of equipment, materials or vehicles, there shall be competitive bids. (as added by Ord. #786, Dec. 2011)
- 5-408. Contracts requiring bonds. No contract shall be let for any public work until the contractor shall have first executed a good and solvent bond or letter of credit to the effect that he will perform according to the contract and pay for all the labor and materials used by said contractor, or any immediate or remote subcontractor under him, in said contract in lawful money of the United States. The bond or letter of credit to be so given shall be for one hundred percent (100%) of the contract price. Where advertisement is made, the condition of the bond or letter of credit shall be stated in the advertisement; provided, that this section shall not apply to contracts under ten thousand dollars (\$10,000.00). (as added by Ord. #786, Dec. 2011)
- 5-409. Emergency purchases. Emergency purchases are to be made only when normal functions and operations of the city or one (1) of its departments would be hampered by submitting a request to the city commission in the regular manner, or when property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. In the event of an apparent emergency which requires immediate procurement of supplies, material and equipment, or contractual services, the city manager shall be empowered to authorize the procurement, at the lowest available price, any supplies or contractual services, not to exceed ten thousand dollars (\$10,000.00), or maximum purchase price allowed by state law, where time does not permit the taking of informal bids. A full report of the circumstances of an emergency purchase shall be filed by the city manager with the city commission at its next meeting, and shall be entered on the minutes of

the city commission. Any emergency purchases exceeding ten thousand dollars (\$10,000.00), or the maximum allowed by state law, shall require the concurrence of the city manager and the mayor. In such event, the city manager will then schedule this item of business for the next scheduled meeting of the city commission, and at said meeting a description of the emergency that has occurred, the item purchased, where the item was purchased and the price paid for said item shall be read into the minutes. Action shall then be taken by the entire city commission for approval. (as added by Ord. #786, Dec. 2011)

- 5-410. Adherence to provisions; individual liability. All contracts, purchase orders, agreements and obligations issued or entered into contrary to the provisions of the foregoing sections shall be void and no person shall have any claim or demand whatever against the city thereunder, nor shall any official or employee of the city waive or qualify the limitation fixed by the preceding section or fasten upon the city any liability whatever contrary to such limitation. (as added by Ord. #786, Dec. 2011)
- 5-411. <u>Petty cash fund</u>. The finance manager, with the approval of the city manager shall authorize certain departments and/or officials to maintain a petty cash fund not to exceed four hundred fifty dollars (\$450.00) from which purchases or payments may be made not to exceed fifty dollars (\$50.00) each, and receipts shall be attached to the warrant voucher replenishing reimbursing said petty cash fund. (as added by Ord. #786, Dec. 2011)
- 5-412. Certification of unencumbered balance required. No contract, purchase order, agreement or other obligations involving the expenditure of any money shall be issued or entered into or be valid unless the finance manager or designee, first certifies thereon that there is in the city treasury to the credit of the appropriation or loan authorization from which it is to be paid an unencumbered balance in excess of all other unpaid obligations. If any official or employee of the city authorizes or incurs an obligation against the city without first securing the city clerk's certification as required by this section, such official or employee and his sureties shall be individually liable for the amount of such obligation. (as added by Ord. #786, Dec. 2011)
- 5-413. Exemption of fuel, fuel products and perishable commodities from public advertisement and competitive bidding requirements. Purchases of fuel and fuel products and perishable commodities are exempted from the requirements of public advertisement and competitive bidding when such items are purchased in the open market. A record of all such purchases shall be made by the purchasing agent and shall specify the amount paid, the items purchased and from whom the purchase was made. The purchasing agent shall make a monthly report of such purchases to the city manager and/or the city

commission and shall include all items of information as required herein in his report. (as added by Ord. #786, Dec. 2011)

### DEBT POLICY

- 5-501. Definition of debt.
- 5-502. Approval of debt.
- 5-503. Transparency.
- 5-504. Role of debt.
- 5-506. Use of variable rate debt.
- 5-507. Use of derivatives.
- 5-508. Costs of debt.
- 5-509. Refinancing outstanding debt.
- 5-510. Professional services.
- 5-511. Policy review.
- 5-512. Compliance.
- 5-501. <u>Definition of debt</u>. All obligations of the city to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of city resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any type whether from an outside source such as a bank or from another internal fund. (as added by Ord. #785, Dec. 2011)
- 5-502. Approval of debt. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the city commission prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the city commission; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #785, Dec. 2011)
- 5-503. <u>Transparency</u>. (1) The city shall comply with legal requirements for notice and for public meetings related to debt issuance. All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites. All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, city commission, and other stakeholders in a timely manner.
- (2) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, city commission, and other stakeholders in a timely manner.

- (3) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, city commission, and other stakeholders in a timely manner. (as added by Ord. #785, Dec. 2011)
- 5-504. Role of debt. (1) Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Long-term debt shall not be used to finance current operations.
- (2) Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the city will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.
- (3) In accordance with Generally Accepted Accounting Principles and state law:
  - (a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.
  - (b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #785, Dec. 2011)
- 5-505. Types and limits of debt. (1) The city will seek to limit total outstanding debt obligations to twenty percent (20%) of gross general fund revenues, excluding overlapping debt, enterprise debt, and revenue debt.
- (2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.
- (3) The city's total outstanding debt obligation will be monitored and reported to the city commission by the finance manager in conjunction with the city manager. The finance manager and the city manager shall monitor the maturities and terms and conditions of all obligations to ensure compliance. They shall also report to the city commission any matter that adversely affects the credit or financial integrity of the city.
- (4) The city is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.
- (5) The city will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.
- (6) As a rule, the city will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the city may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a

public meeting and the mayor and governing body must determine such use is justified and in the best interest of the city.

- (7) The city may use capital leases to finance short-term projects.
- (8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The city may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the city. The city commission and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the city's general fund. (as added by Ord. #785, Dec. 2011)
- 5-506. <u>Use of variable rate debt</u>. (1) The city recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.
- (2) The city also recognizes, however, there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:
  - (a) The city will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.
  - (b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the city commission shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.
  - (c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the city commission shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.
  - (d) Prior to entering into any variable rate debt obligation, the city commission will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.
  - (e) The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (as added by Ord. #785, Dec. 2011)
- 5-507. <u>Use of derivatives</u>. The city chooses not to use derivative or other exotic financial structures in the management of the city's debt portfolio. Prior to any reversal of this provision:
- (1) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the city commission; and

- (2) The city commission must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the State Funding Board Guidelines. (as added by Ord. #785, Dec. 2011)
- 5-508. <u>Costs of debt</u>. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the city commission in accordance with the notice requirements stated above.
- (2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.
- (3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (as added by Ord. #785, Dec. 2011)
- 5-509. Refinancing outstanding debt. (1) The city will refund debt when it is in the best financial interest of the city to do so, and the finance manager and city manager shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.
- (2) The finance manager and city manager will consider the following issues when analyzing possible refunding opportunities:
  - (a) Onerous restrictions Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.
  - (b) Restructuring for economic purposes -The city will refund debt when it is in the best financial interest of the city to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the finance manager and city manager if the refunding generates positive present value savings, and the finance manager and city manager must establish a minimum present value savings threshold for any refinancing.
  - (c) Term of refunding issues The city will refund bonds within the term of the originally issued debt. However, the finance manager and city manager may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The finance manager and city manager may also consider shortening the term of the originally issued debt to realize greater savings. The

remaining useful life of the financed facility and the concept of intergenerational equity should guide this decision.

- (d) Escrow structuring The city shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the city from its own account.
- (e) Arbitrage The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #785, Dec. 2011)
- 5-510. <u>Professional services</u>. (1) The city shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the city and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.
- (2) <u>Counsel</u>. The city shall enter into an engagement letter agreement with each lawyer or law firm representing the city in a debt transaction. No engagement letter is required for any lawyer who is an employee of the city or lawyer or law firm which is under a general appointment or contract to serve as counsel to the city. The city does not need an engagement letter with counsel not representing the city, such as underwriters' counsel.
- (3) <u>Financial advisor</u>. The city shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions. Whether in a competitive sale or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance or broker any other debt transactions for the city.
- (4) <u>Underwriter</u>. The city shall require the underwriter to clearly identify itself in writing e.g., in a response to a request for proposals or in promotional materials provided to an issuer as an underwriter and not as a financial advisor from the earliest stages of its relationship with the city with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the entity. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body or city manager in advance of the pricing of the debt.
- (5) Professionals involved in a debt transaction hired or compensated by the city shall be required to disclose to the city existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring

- organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the city to appreciate the significance of the relationships.
- (6) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #785, Dec. 2011)
- 5-511. <u>Policy review</u>. This policy shall be reviewed at least annually by the city commission with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #785, Dec. 2011)
- 5-512. <u>Compliance</u>. The finance manager in conjunction with the city manager is responsible for ensuring compliance with this policy. (as added by Ord. #785, Dec. 2011)

### TITLE 6

### LAW ENFORCEMENT

### CHAPTER

- 1. POLICE DEPARTMENT.
- 2. MUNICIPAL ENFORCEMENT OFFICERS.

### CHAPTER 1

## POLICE DEPARTMENT<sup>1</sup>

- 6-101. Police department created.
- 6-102. Duties of the police department; police chief.
- 6-103. Organization of police department.
- 6-104. Policemen subject to police chief's orders.
- 6-105. Policemen to preserve law and order, etc.
- 6-106. Policemen to wear uniforms and be armed.
- 6-107. When policemen to make arrests
- 6-108. When policemen may require assistance in making arrests.
- 6-109. Police division records.
- 6-110. Terms, meanings.
- 6-101. <u>Police department created</u>. Under the authority of § 6-21-302 of the Collegedale City Charter, the police is created. (1977 Code, § 1-501, as repealed and replaced by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-102. <u>Duties of the police department; police chief.</u> Police services shall be provided in the City of Collegedale Police Department, which shall have all the powers, duties and responsibilities conferred upon the police department under the charter of the City of Collegedale, and any other laws of the State of Tennessee. (1977 Code, § 1-502, as repealed and replaced by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-103. <u>Organization of police department</u>. The police department shall be divided into one division and shall be staffed by officers and other municipal employees in the number provided for by the city manager. (1977 Code, § 1-503,

<sup>&</sup>lt;sup>1</sup>Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 6.

as repealed and replaced by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)

- 6-104. <u>Policemen subject to police chief's orders</u>. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1977 Code, § 1-504, as repealed and replaced by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-105. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the City of Collegedale. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1977 Code, § 1-505, as repealed and replaced by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-106. <u>Policemen to wear uniforms and be armed</u>. All policemen shall wear such uniform and shall carry a service weapon at all times while on duty unless otherwise expressly directed by the police chief for a special assignment. (1977 Code, § 1-507, as repealed and replaced by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-107. When policemen to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:
- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and officers have reasonable cause to believe the person has committed it. (as added by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-108. Policemen may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (as added by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 6.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- 6-109. <u>Police division records</u>. The police division 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 division. (as added by Ord. #328, § 1, June 1995, as repealed and replaced by Ord. #593, May 2004)
- 6-110. <u>Terms, meanings</u>. Anywhere in the Collegedale Municipal Code are found the following terms, those terms shall be given the meaning indicated:
- (1) The term "public safety director" and similar terms shall respectively mean, "police chief."
- (2) The terms, "public safety department" or similar terms shall mean "police department." (as added by Ord. #593, May 2004)

## MUNICIPAL ENFORCEMENT OFFICERS

### SECTION

- 6-201. Title.
- 6-202. Definitions.
- 6-203. Authority to establish additional regulations.
- 6-204. Carrying of weapons prohibited.
- 6-205. Conditions of commissions.
- 6-206. Powers.
- 6-207. Form of citation.
- 6-208. Conduct.
- 6-201. <u>Title</u>. This chapter may be referred to as the "Municipal Enforcement Officers' Commission Ordinance." (as added by Ord. #1040, Oct. 2017)
- 6-202. <u>Definitions</u>. When used in this chapter, the term "municipal enforcement officer" means any person employed by the city and commissioned by city commission to enforce the codes and ordinances of the city, or any portion thereof, or any person appointed by the chief of police to enforce the ordinances of the city related to parking.

For the purposes of this chapter, "municipal enforcement officer" includes "municipal enforcement officers," as defined in <u>Tennessee Code Annotated</u>, § 7-63-101 and "special police officers," as defined in <u>Tennessee Code Annotated</u>, § 7-63-201. (as added by Ord. #1040, Oct. 2017)

- 6-203. <u>Authority to establish additional re gulations</u>. The city manager, or if the city manager elects, the police chief has the authority to establish and enforce rules and regulations for the operation of municipal enforcement officers in the interest of public safety, morals and welfare, and to effectuate the general purpose of this division. (as added by Ord. #1040, Oct. 2017)
- 6-204. <u>Carrying of weapons prohibited</u>. No municipal enforcement officer may carry a firearm in the execution of his official duties, although an employee may carry a private firearm in his vehicle consistent with state law. If the employee feels physically threatened in any way, he or she should leave the immediate presence of the threat and call law enforcement to address the situation. (as added by Ord. #1040, Oct. 2017)
- 6-205. <u>Conditions of commissions</u>. The following shall apply to all commissions:

- (1) Municipal enforcement officers appointed under this chapter shall not have general law enforcement authority, and shall have the authority to enforce only those codes and ordinances of the city of that directly pertain to their employment by the city, or, if so commissioned, to enforce the ordinances of the city related to parking.
- (2) Commissions issued under this chapter are to be issued by resolution of the city commission.
  - (3) Commissions issued under this division shall not be transferable.
- (4) A municipal enforcement officer commission shall be automatically revoked upon termination of the municipal enforcement officer's employment with the city. (as added by Ord. #1040, Oct. 2017)
- 6-206. <u>Powers</u>. Municipal enforcement officers appointed under the provisions of this division shall have the power and authority to issue citations for violations of the codes and ordinances of the city within the scope of their employment, but not otherwise. No municipal enforcement officer shall have the power or authority to make arrests except as may be authorized for private citizens by <u>Tennessee Code Annotated</u>, § 40-7-109 or use force in the discharge of said municipal enforcement officer's duties except as may be authorized by <u>Tennessee Code Annotated</u>, § 39-11-621. (as added by Ord. #1040, Oct. 2017)
- 6-207. Form of citation. (1) Citations in lieu of arrest may be issued for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances, and violation of municipal parking offenses as provided in title 11 of this code. The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender.
- (2) Ordinance summonses in the areas of sanitation, litter control and animal control. The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summons notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender.
- (3) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation or summons was issued.
- (4) If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:
  - (a) Have a summons issued by the clerk of the city court, or

(b) May seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in accordance with <u>Tennessee Code Annotated</u>, § 7-63-104. (as added by Ord. #1040, Oct. 2017)

6-208. <u>Conduct</u>. In addition to any rules of conduct imposed as part of their employment, municipal enforcement officers shall conduct themselves at all times in such a manner as to reflect favorably on the city. (as added by Ord. #1040, Oct. 2017)

## TITLE 7

## FIRE PROTECTION AND FIREWORKS

## CHAPTER

- 1. GENERAL PROVISIONS.
- 2. FIRE CODE.

## CHAPTER 1

## GENERAL PROVISIONS

- 7-101. Fire limits described.
- 7-102. Fire protection.
- 7-101. <u>Fire limits described</u>. The corporate fire limits shall be and include all the property within the corporate limits which is zoned for business use. (1977 Code, § 7-101)
- 7-102. <u>Fire protection</u>. Fire protection shall be furnished for the city and its inhabitants under such contract as the board of commissioners shall grant.<sup>1</sup> (1977 Code, § 7-102)

<sup>&</sup>lt;sup>1</sup>Agreements to furnish fire protection services to the City of Collegedale are of record in the office of the recorder.

## 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 International Fire Code,² 2018 edition and Appendices A, B, C, D, E, F, G, H, I, J, K, L, M and N as prepared and adopted by the International Code Council, Inc. is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the city recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1977 Code, § 7-201, modified, as amended by Ord. #333, § 1, Aug. 1995, Ord. #507, March 1998, Ord. #757, Sept. 2010, Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 *Ch8\_07-19-21*)

7-202. <u>Enforcement</u>. 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. (1977 Code, § 7-202)

7-203. <u>Definition of "municipality</u>." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Collegedale, Tennessee. (1977 Code, § 7-203)

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

<sup>&</sup>lt;sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

- 7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.
- (2) The district referred to in section 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.
- (3) The district referred to in section 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.
- (4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in section 7-101 of this code. (1977 Code, § 7-204)
- 7-205. <u>Gasoline trucks</u>. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1977 Code, § 7-205)
- 7-206. <u>Variances</u>. The chief of the fire department may recommend to the board of mayor and aldermen 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 board of mayor and aldermen. (1977 Code, § 7-206)
- 7-207. <u>Violations and penalties</u>. It shall be unlawful for any person to violate any of the provisions of this chapter or the <u>Standard Fire Prevention Code</u> 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 modified by the board of mayor and aldermen 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. (1977 Code, § 7-207)

### TITLE 8

## ALCOHOLIC BEVERAGES<sup>1</sup>

### **CHAPTER**

- 1. INTOXICATING LIQUORS.
- 2. BEER.
- 3. BROWN BAGGING AND CORKAGE.

### CHAPTER 1

# **INTOXICATING LIQUORS**

### SECTION

- 8-101. Definitions.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on premises.
- 8-104. Annual privilege tax to be paid to the city recorder.
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.
- 8-107. [Deleted.]
- 8-108. [Deleted.]
- 8-109. [Deleted.]
- 8-110. [Deleted.]
- 8-101. <u>Definitions</u>. As used in this chapter, unless the context indicates otherwise: All of the definitions and provisions of <u>Tennessee Code Annotated</u>, section 57-3-101 are adopted for the the interpretation of this chapter and are made applicable to the sale and regulation of alcoholic beverages within the city. (1977 Code, § 2-101, as amended by Ord. #320, Jan. 1995; and replaced by Ord. #489, May 1997, Ord. #536, July 2000, Ord. #723, Sept. 2009, and Ord. #764, Jan. 2011)
- 8-102. <u>Consumption of alcoholic beverages on premises</u>. <u>Tennessee Code Annotated</u>, 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

Driving under the influence: § 15-104.

State law reference

Tennessee Code Annotated, title 57.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

limits of Collegedale, Tennessee. It is the intent of the board of commissioners that the said <u>Tennessee Code Annotated</u>, title 57, chapter 4, inclusive, shall be effective in Collegedale, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)

- 8-103. 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 authorized by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Collegedale General Fund to be paid annually as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Collegedale on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)
- 8-104. 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 City of Collegedale shall remit annually to the city recorder the appropriate tax described in § 8-103. 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. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)
- 8-105. Concurrent sales of liquor by the drink and beer. In order to concurrently sell 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 City of Collegedale, pursuant to Tennessee Code Annotated, title 57, chapter 4 shall also qualify to receive a beer permit from the city for on-premises consumption as required by chapter 2 of this title. (as added by Ord. #489, May 1997, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)
- 8-106. <u>Advertisement of alcoholic beverages</u>. All advertisement of the availability of liquor for sale by those licensed pursuant to <u>Tennessee Code Annotated</u>, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord.

- #489, May 1997, replaced by Ord. #536, July 2000, amended by Ord. #594, May 2004, deleted by Ord. #723, Sept. 2009, and added by Ord. #764, Jan. 2011)
- 8-107. [<u>Deleted</u>.] (as added by Ord. #489, May 1997, amended by Ord. #594, May 2004, deleted by Ord. #723, Sept. 2009, added by Ord. #764, Jan 2011, and deleted by Ord. #848, June 2012)
- 8-108. [<u>Deleted</u>.] (as added by Ord. #489, May 1997, amended by Ord. #594, May 2004, and deleted by Ord. #723, Sept. 2009)
- 8-109. [<u>Deleted</u>.] (as added by Ord. #489, May 1997, and deleted by Ord. #723, Sept. 2009)
- 8-110. [<u>Deleted</u>.] (as added by Ord. #489, May 1997, replaced by Ord. #704, Nov. 2008, and deleted by Ord. #723, Sept. 2009)

## **BEER**

- 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. Consumption permits
- 8-211. Sale of beer for both on premises and off premises consumption
- 8-212. [Deleted.]
- 8-213. [Deleted.]
- 8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-215. Revocation or suspension of beer permits.
- 8-216. Civil penalty in lieu of revocation or suspension.
- 8-217. Loss of clerk's certification for sale to minor.
- 8-218. Hours of beer sales allowed.
- 8-219. Violations.
- 8-201. <u>Beer board established</u>. There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (as added by Ord. #723, Sept. 2009)
- 8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (as added by Ord. #723, Sept. 2009)
- 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; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each

member thereon; and the provisions of each beer permit issued by the board. (as added by Ord. #723, Sept. 2009)

- 8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (as added by Ord. #723, Sept. 2009)
- 8-205. <u>Powers and duties of the beer board</u>. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (as added by Ord. #723, Sept. 2009)
- 8-206. "Beer" defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; 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. #723, Sept. 2009, and replaced by Ord. #1029, April 2017)
- 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 non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Collegedale, Tennessee. 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. #723, Sept. 2009)
- 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 City of Collegedale, 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. #723, Sept. 2009)

- 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. #723, Sept. 2009)
- 8-210. <u>Consumption permits</u>. Permits issued by the beer board shall consist of two (2) classes:
- (1) <u>On premises permit</u>. An on premises permit shall be issued for the consumption of beer only on the premises.
- (2) Off premises permit. An off premises permit shall be issued for the consumption of beer only off the premises. (as added by Ord. #723, Sept. 2009)
- 8-211. Sale of beer for both on premises and off premises consumption. A single permit may be issued to sell beer for both on premises and off premises consumption at the same location. (as added by Ord. #723, Sept. 2009)
- 8-212. [Deleted.] (as added by Ord. #723, Sept. 2009, and deleted by Ord. #1029, April 2017)
- 8-213. [Deleted.] (as added by Ord. #723, Sept. 2009, replaced by Ord. #764, Jan 2011, and deleted by Ord. #848, June 2012)
- 8-214. 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) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (3) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
  - (4) Allow drunk persons to loiter about his premises.
- (5) 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.

- (6) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (as added by Ord. #723, Sept. 2009)
- 8-215. 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 (12) month period. The revocation shall be for three (3) years. (as added by Ord. #723, Sept. 2009)
- 8-216. <u>Civil penalty in lieu of revocation or suspension</u>. (1) <u>Definition</u>. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," <u>Tennessee Code Annotated</u>, § 57-5-601, <u>et seq</u>.
- (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. #723, Sept. 2009)

- 8-217. 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. #723, Sept. 2009)
- 8-218. <u>Hours of beer sales allowed</u>. (1) For on-premises consumption, beer as defined herein to may not be consumed on the licensed premises between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday unless the local jurisdiction has opted out of the expanded hours.
- (2) For off-premises consumption, the sale of beer as defined shall be permitted seven (7) days a week, twenty-four (24) hours a day. (as added by Ord. #723, Sept. 2009, and replaced by Ord. #764, Jan. 2011)
- 8-219. <u>Violations</u>. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #723, Sept. 2009)

### BROWN BAGGING AND CORKAGE

- 8-301. Brown bagging and corkage, generally.
- 8-302. Definitions.
- 8-303. Beer board and police to enforce chapter
- 8-304. Hours regulated.
- 8-305. Sales to incapacitated or incompetent persons prohibited.
- 8-306. Employment of minors.
- 8-307. Immoral acts prohibited on premises.
- 8-308. Telephone and reports or disorders.
- 8-309. Permit required.
- 8-310. Application fee.
- 8-311. Location to be designated.
- 8-312. Grounds for refusal.
- 8-313. When beer board may issue.
- 8-314. To be posted.
- 8-315. Not transferrable.
- 8-316. Grounds for revocation or suspension.
- 8-301. Brown bagging and corkage, generally. The provisions of this chapter shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit brown bagging in their establishment. It shall not apply to those persons or businesses only having a beer permit as provided in title 8, chapter 2 of the city code or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the Alcoholic Beverage Commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201. (as added by Ord. #764, Jan 2011)
- 8-302. <u>Definitions</u>. As used in this chapter, the following definitions shall apply:
- (1) "Brown bag" or "brown bagging" shall mean the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.
- (2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.
- (3) "Person selling setups for mixed drinks" shall mean and include any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.

- (4) "Setups for mixed drinks" shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (as added by Ord. #764, Jan 2011)
- 8-303. Beer board and police to enforce chapter. (1) The beer board shall issue permits, and revoke or suspend licenses issued for the activities described in § 8-108, except where such action would be inconsistent with any specific provision of this chapter.
- (2) The city police and building inspector shall enforce all laws, ordinances and rules regulating establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (as added by Ord. #764, Jan 2011)
- 8-304. <u>Hours regulated</u>. No permittee under this chapter shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, or permit any alcoholic beverages to be consumed on the premises between the hours of 11:00 P.M. and 10:30 A.M. on any day of the week. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours. (as added by Ord. #764, Jan 2011)
- 8-305. <u>Sales to incapacitated or incompetent persons prohibited</u>. No permittee under this chapter shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons. (as added by Ord. #764, Jan 2011)
- 8-306. <u>Employment of minors</u>. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this chapter without being in full compliance with <u>Tennessee Code Annotated</u>, § 57-3-704. (as added by Ord. #764, Jan 2011)
- 8-307. <u>Immoral acts prohibited at premises</u>. It shall be unlawful for any person to appear or be on the premises of a permittee under this chapter so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:
- (1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law:
- (2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

- (3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
- (4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or
- (5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above. (as added by Ord. #764, Jan 2011)
- 8-308. <u>Telephone and reports of disorders</u>. All permittees are required to maintain a telephone in good working order on the premises and to report all fights and other public disorders occurring on such premises immediately, whether or not participants in any such disorder have left the premises. (as added by Ord. #764, Jan 2011)
- 8-309. <u>Permit required</u>. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (as added by Ord. #764, Jan 2011)
- 8-310. Application; fee. (1) All applications for a permit to sell setups for mixed drinks or to permit brown bagging shall be filed with city recorder. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this chapter, and report all findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.
- (2) The application shall be accompanied by a fee of one hundred dollars (\$100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars (\$50.00) every year thereafter to be paid on or before January 1 of each year. (as added by Ord. #764, Jan 2011)
- 8-311. <u>Location to be designated</u>. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (as added by Ord. #764, Jan 2011)
- 8-312. <u>Grounds for refusal</u>. (1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this

- chapter or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this chapter has been revoked within three (3) years or is under suspension.
- (2) No such establishment shall be located within three hundred feet (300') of any active school or church. The distances provided for herein shall be measured in a straight line by beginning at the front door of the business location and going from that point to the front door of any active church house or active school.
- (3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2) of this section.
- (4) The beer board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the applicant's premises; and when, because of limiting conditions such as topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this section.
- (5) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provisions of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this section. (as added by Ord. #764, Jan 2011)
- 8-313. When beer board may issue. The beer board shall issue no permit until the application therefor has been approved following a public hearing at a regularly scheduled council meeting with reasonable public notice. (as added by Ord. #764, Jan 2011)
- 8-314. <u>To be posted</u>. Any permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #764, Jan 2011)
- 8-315. <u>Not transferable</u>. No permit issued by the beer board under the provisions of this chapter shall be transferable from one (1) person to another. (as added by Ord. #764, Jan 2011)
- 8-316. Grounds for revocation or suspension. (1) The beer board shall revoke or suspend, and shall be charged with the duty of revoking or

suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this chapter or any other ordinance, state law or regulation or federal law or regulation governing the operation of such establishments or when the permittee:

- (a) Operates a disorderly place; or
- (b) Allows gambling on the premises; or
- (c) Allows fighting or boisterous or disorderly conduct on the premises; or
- (d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
- (e) Allows minors to congregate about the premises after normal hours of business; or
- (f) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
- (g) Has made a false statement of a material fact in any application or notice to the board; or
- (h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; or
- (i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or
- (j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
- (k) Allows violation of any provision of this chapter to occur on the licensed premises; or
- (l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department; or
- (m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or
- (n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or
- (o) Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with <u>Tennessee Code Annotated</u>, § 57-3-704.

(2) The beer board may also, in its discretion, revoke a permit for due cause not specified herein. (as added by Ord. #764, Jan 2011)

### TITLE 9

# BUSINESS, PEDDLERS, SOLICITORS, ETC.1

### **CHAPTER**

- 1. MISCELLANEOUS.
- 2. PEDDLERS, SOLICITORS, ETC.
- 3. POOL ROOMS.
- 4. AMBULANCE SERVICE.
- 5. CABLE TELEVISION.
- 6. ADULT-ORIENTED ESTABLISHMENTS.

### 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. (1977 Code, § 5-102)

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11. Privilege taxes: title 5.

Zoning: title 14.

<sup>&</sup>lt;sup>1</sup>Municipal code references

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

#### SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required; eligibility.
- 9-204. Permit procedure.
- 9-205. Business license required.
- 9-206. Restrictions on permit holders in general.
- 9-207. Additional restrictions on transient vendors.
- 9-208. Display of permit, business license, etc.
- 9-209. Revocation of permit.
- 9-210. Violation and penalty.
- 9-201. <u>Definitions</u>. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:
- (1) "Peddler" means any person who individually or as an agent or employee of any firm, corporation, or organization, who has no permanent regular place of business and who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.
- (2) "Solicitor" means any person who individually or as an agent or employee of any firm, corporation or organization, who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes as that term is defined below.
- (3) "Solicitor for charitable or religious purposes" means any person who individually or as an agent or employee of any firm, corporation or organization who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, soliciting contributions from the public for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-801.

<sup>&</sup>lt;sup>1</sup>Municipal code references

person, firm, corporation or organization shall qualify as a solicitor for charitable or religious purposes unless it meets one of the following conditions:

- (a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.
- (b) Is a member of United Way, Community Chest or a similar "umbrella" organization for charitable or religious organizations.
- (c) Has been in continued existence as a charitable or religious organization in Hamilton County for a period of two (2) years prior to the date of its application for registration under this chapter.
- (4) "Street barker" means any person who engages in the business or conduct as a peddler individually or as an agent or employee of any firm, corporation or organization during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.
- (5) "Transient vendor" means any person who individually or as an agent or employee of any firm, corporation or organization who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a business or residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months

<sup>&</sup>lt;sup>1</sup>State law reference

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

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

or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

- 9-202. <u>Exemptions</u>. The terms of this chapter shall not apply to persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business, or to persons selling agricultural products, who themselves produced the products being sold.
- 9-203. <u>Permit required; eligibility</u>. It is the intent of this section to treat each person, and each firm, corporation and organization, and each agent for same, and each person who as an employee or who in any other capacity for such firm, corporation or organization, is covered by this chapter, as a separate person for the purposes of investigation and payment of the permit fee.

Individuals, firms, corporations and organizations are eligible for a permit under this chapter. Persons applying for an individual permit under this chapter shall complete an application on forms provided by the city, and pay the permit fee. Agents applying for a permit for a firm, corporation, or organization under this chapter shall complete a separate application, and pay a separate permit fee for, the firm, corporation or organization, and the agent, and for each individual who as an employee of, or in any other capacity for, the firm, corporation or organization, will engage in the business or conduct of a peddler, solicitor, solicitor for charitable or religious purposes, transient vendor, or street barker.

- 9-204. <u>Permit procedure</u>. (1) <u>Application form</u>. The application shall be sworn to by the applicant, and shall contain:
  - (a) Name, date of birth, social security number or other identification number of the applicant, his or her physical description, and a copy of his or her drivers license.
  - (b) The following complete addresses and telephone numbers of the applicant:
    - (1) Permanent
    - (2) Permanent business
    - (3) Local residential
    - (4) Local business
  - (c) If the applicant is an agent or employee of a firm, corporation or organization, the written credentials establishing the applicant's employee or any other agency relationship with the firm, corporation or organization.
  - (d) A statement as to whether or not the applicant has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

- (e) The last three (3) cities, towns, or other political subdivisions (if that many) the applicant engaged in the business or conduct as a peddler, solicitor, solicitor for religious or charitable purposes, transient vendor, or street barker immediately prior to making application for a permit under this chapter, and the complete addresses, if any, of the applicant listed under (b) above in those cities, towns or other political subdivisions.
- (f) Two photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, measuring two inches by two inches, and showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (g) A brief description of the type of business and the goods to be sold or in the case of solicitors for charitable or religious purposes, the function of the organization.
- (h) The dates for which the applicant intends to do business or make solicitations.
- (i) The make, model, complete description, and license tag number and state of issue, of each vehicle the applicant intends to use to make sales or solicitations, whether or not such vehicle is owned by the person making sales or solicitations, or by the firm, corporation or organization itself, or rented or borrowed from another business or person.
  - (j) Tennessee State sales tax number, if applicable.
- (2) Permit fee. Each applicant for a permit as a peddler, solicitor, or transient vendor shall submit with his application a nonrefundable fee of fifty dollars (\$50.00). Each applicant for a permit as a street barker shall submit with his application a nonrefundable fee of twenty-five dollars (\$25.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.
  - (3) <u>Denial or approval of permit</u>. (a) <u>Investigation</u>. Upon the receipt of the application and the payment of the permit fee, the chief of police or his authorized designee shall make an investigation of the applicant for the protection of the public health, safety and general welfare of the public. The police chief shall make a good faith effort to complete the investigation within three complete working days, excluding Saturdays, Sundays and holidays of the city. If the investigation is not complete within that period, the reasons shall be noted on the application. In no event shall the period of the investigation exceed ten (10) days.
  - (b) <u>Denial of permit</u>. The chief of police shall deny the applicant a permit if the investigation discloses that
    - (i) The applicant has been convicted of a felony within the past ten (10) years or has been convicted or a misdemeanor other than a minor traffic violation within the past three (3) years;

- (ii) Any information in the application that is materially false or misleading; or
- (iii) The business reputation of the applicant is such that the applicant constitutes a threat to the public health, safety or general welfare of the citizens of the city.
- (iv) The information supplied in the application is insufficient to permit the chief of police to make a determination under (i), (ii) or (iii) above.

The application of a firm, corporation or organization may be rejected if the investigation discloses no information that would disqualify it for a permit where the investigation of the agent or a prospective peddler, solicitor, solicitor for charitable purposes, street barker or transient vendor for the firm, corporation or organization discloses information that disqualifies any of them for a permit.

The chief of police shall note on the application the specific reasons for the disapproval of the permit. A copy of the application containing the specific reasons for the disapproval shall be sent by United States mail to the applicant at the applicant's address shown on the application.

- (c) <u>Approval of permit</u>. If the investigation discloses no grounds for the denial of the permit, the chief of police shall issue a permit to the applicant.
- (d) Appeal of denial. The refusal of the police chief to issue a permit may be appealed to the city manager. The aggrieved applicant may within ten (10) days following the date the notice of the refusal of the police chief to issue a permit was mailed to the applicant appeal the refusal by giving the city manager written notice of appeal, stating the grounds for the appeal. The city manager shall set a hearing on the appeal for a date falling within ten days following the date of the receipt of the appeal. The decision of the city manager shall be final.
- (4) The permit. The permit shall show the name of the permittee and (if the permittee is a firm, corporation or organization) the name of the solicitor, solicitor for charitable purposes, street barker or transient vendor, the kind of goods and/or services authorized to be sold, the amount of the permit fee paid, the date of issuance of the permit, and the period of the permit, and shall have attached a copy of a photograph of the permittee.
- (5) <u>Expiration and renewal of permit</u>. The permit of peddlers, solicitors, solicitors for religious and charitable purposes, and transient vendors shall expire sixty (60) days from the date of issue. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city.
- 9-205. <u>Business license required</u>. Each person, or each firm, corporation or organization issued a permit under this chapter as a peddler, solicitor, street

barker or transient merchant shall be required to obtain a business license before soliciting or making sale.

- 9-206. <u>Restrictions on permit holders in general</u>. No person while conducting the business or activity of peddler, street barker, solicitor, solicitor for charitable or religious purposes, transient vendor, or street barker shall:
- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.
- (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic; or
- (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.
- (4) Call attention to his or her business or merchandise or to his or her solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise; except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.
- (5) Enter or attempt to enter in or upon any residential or business premises wherein the authorized owner, occupant or person legally in charge of the premises has in a conspicuous place posted, at the entry to the premises, or at the entry to the principal building of the premises, a sign or placard in letters at least one inch high bearing the notice "Peddlers Prohibited," "Solicitors Prohibited," "Peddlers and Solicitors Prohibited," or similar language of the same import, is located.
- (6) Enter in or upon any residential premises without prior invitation of the authorized owner, occupant or person legally in charge of the premises between 9:00 P.M. and 8:00 A.M.
- 9-207. <u>Additional restrictions on transient vendors</u>. A transient vendor shall not:
- (1) Advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.
- (2) Locate temporary premises as the term is defined in this chapter on or in any public street, highway or any other public way or place, or on private property without the written permission of the property owner or other person in authorized control of the property.
- 9-208. <u>Display of permit, business license, etc</u>. Each peddler, solicitor, and street barker is required to have in his possession a valid permit and

business license, and each transient vendor is required to have in his possession a valid permit, business license, and the written permission of any private property owner or other person in control of the property owner from which he or she is conducting business, while making sales or solicitations, and all shall be required to display the same to any police officer upon demand. Solicitors for charitable and religious purposes shall be required to have in their possession a valid permit.

- 9-209. <u>Revocation of permit.</u> (1) <u>Causes</u>. The permit issued to any person or to any firm, corporation or organization under this chapter may be revoked by the city manager for any of the following causes:
  - (a) Fraud, misrepresentation, or false or misleading statement contained in the application for a permit.
  - (b) Fraud, misrepresentation, or false or misleading statement made by the permittee in the course of the business or conduct of a peddler, solicitor, solicitor for charitable or religious purposes, transient vendor or street barker.
    - (b) Any violation of this chapter.
  - (c) Any other conduct of the permittee that constitutes a threat to the health, safety or general welfare of the citizens of the city.
  - (2) The notice of revocation. (a) City manager's option. The city manager shall have the option of revoking the permit effective immediately after notice, or effective after notice and hearing. However, the city manager shall revoke the permit effective immediately only after a written finding of the reasons that to delay the revocation of the permit would represent an intolerable threat to the health, safety or general welfare of the citizens of the city.
  - (b) Notice if the permit holder is a person. If the permit holder is a person, the city shall make a reasonable effort to personally deliver the notice of revocation effective to the permit holder. If the permit holder cannot be found after such reasonable effort, the notice shall be sent by registered or certified United States mail to the local residential or business address of the permit holder. If the permit holder has no local residential or business address the notice shall be sent to the permit holder's permanent address.
  - (c) Notice if the permit holder is a firm, corporation or organization. The personal notice provided for above may be given to the agent of the firm, corporation or organization, or to any employee or agent of the firm, corporation, or organization; otherwise, the notice procedure prescribed by (b) above shall apply where the permit holder is a firm, corporation or organization.
  - (d) <u>Contents of notice and hearing</u>. The notice shall set forth the specific grounds for revocation of the permit and shall set a hearing

- on the revocation on a date falling not less than five (5) nor more than (10) days from the date of the notice.
- (3) <u>Hearing on the revocation</u>. At the hearing on the revocation of the permit, the permittee shall be entitled to respond to the charges against him or her and to be represented by counsel at his or her expense. The city manager's decision shall be final.
- 9-210. <u>Violation and penalty</u>. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to one hundred dollars (\$100) for each offense. Each day a violation occurs shall constitute a separate offense.

# POOL ROOMS<sup>1</sup>

## SECTION

- 9-301. Prohibited in residential areas.
- 9-302. Hours of operation regulated.
- 9-303. Minors to be kept out; exception.
- 9-301. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty per cent (50%) or more of the land is used or zoned for residential purposes. (1977 Code, § 5-501)
- 9-302. <u>Hours of operation regulated</u>. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 p.m. and 6:00 a.m. on other days. (1977 Code, § 5-502)
- 9-303. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, 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, 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, and, pool tables in private residences. (1977 Code, § 5-503)

Privilege tax provisions, etc.: title 5.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

### AMBULANCE SERVICE

- 9-401. Certificate required for operation.
- 9-402. Certificates issued upon qualification.
- 9-403. Revocation of certificates.
- 9-401. <u>Certificate required for operation</u>. No person, firm, corporation, association, county, municipality, or metropolitan government or agency, either as owner, agent, or otherwise, shall hereafter furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of transporting patients or other injured or ill persons upon the streets, highways or airways in the City of Collegedale, Tennessee, until he holds a currently valid municipal certificate issued by the City of Collegedale, Tennessee, certifying that he has complied with all the requirements set forth in title 68, chapter 39, <u>Tennessee Code Annotated</u> (EMERGENCY MEDICAL SERVICES), and that he has currently in effect liability insurance coverage with liability limits of \$100,000--\$300,000 or more, and uninsured, motorist coverage in the amount of at least \$50,000. (1977 Code, § 5-601)
- 9-402. <u>Certificate issued upon qualification</u>. Application for said certificates shall be made to the city manager. The city manager shall issue certificates valid for the term of one (1) year upon presentation to him by the applicant of satisfactory evidence of compliance with the requirements set forth hereinabove. (1977 Code, § 5-602)
- 9-403. <u>Revocation of certificates</u>. Certificates issued pursuant to this chapter are subject to revocation upon violation of any of the requirements set forth hereinabove. Violation of the requirements of this chapter shall constitute a punishable offense. (1977 Code, § 5-603)

### CABLE TELEVISION

- 9-501. To be furnished under franchise.
- 9-502. Definitions.
- 9-503. Regulation of rates charged for cable television service and equipment.
- 9-501. To be furnished under franchise. Cable television shall be furnished to the City of Collegedale and its inhabitants under franchise granted to Telescripps Cable Company by the board of mayor and aldermen of the City of Collegedale, Tennessee. The rights, powers, duties and obligations of the City of Collegedale and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup>
- 9-502. <u>Definitions</u>. Whenever the regulations cited in section 9-503 refer to "franchising authority", it shall be deemed to be a reference to the Board of Commissioners of the City of Collegedale, Tennessee. (as added by Ord. #311, § 1, March 1994)
- 9-503. Regulation of rates charged for cable television service and equipment. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority and said Act certifying the city to regulate basic cable television service within the boundaries of the city; and for the purposes of regulating the rates charged to customers of any cable television operator franchised by the city, the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart N, sections 76.900 through 76.985, are hereby adopted and incorporated by reference as a part of this code. (as added by Ord. #311, § 1, March 1994)

<sup>&</sup>lt;sup>1</sup>For complete details relating to the cable television franchise agreement see Ords. #150, Oct. 1980, Ord. #249, Jan. 1989, Ord. #550, Dec. 2001, and Ord. #739, April 2010 in the office of the city recorder.

# ADULT-ORIENTED ESTABLISHMENTS

- 9-601. Findings and purpose.
- 9-602. Definitions.
- 9-603. Location restrictions.
- 9-604. License required.
- 9-605. Application for license.
- 9-606. Standards for issuance of license.
- 9-607. Permit required.
- 9-608. Application for permit.
- 9-609. Standards for issuance of permit.
- 9-610. Fees.
- 9-611. Display of license or permit.
- 9-612. Renewal of license or permit.
- 9-613. Revocation of license or permit.
- 9-614. Hours of operation.
- 9-615. Physical design of the premises.
- 9-616. Responsibilities of the operator.
- 9-617. Prohibitions and unlawful sexual acts.
- 9-618. Penalties and prosecution.
- 9-619. Severability clause.
- 9-601. <u>Findings and purpose</u>. (1) The Board of Mayor and Commissioners of the City of Collegedale, Tennessee, finds:
  - (a) That homogeneous and heterogeneous mastubatory acts and other sexual acts, including oral sex acts, could occur within adult-oriented establishments in the City of Collegedale;
  - (b) That offering and providing such space, areas, and rooms where such activities may take place creates conditions that generate prostitution and other crimes;
  - (c) That the unregulated operation of adult-oriented establishments would be detrimental to the general welfare, health, and safety of the citizens of the City of Collegedale.
- (2) It is the purpose of this chapter to promote and secure the general welfare, health, and safety of the citizens of the City of Collegedale. (as added by Ord. #612, April 2005)
- 9-602. <u>Definitions</u>. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning.

- (1) "Adult" means a person who has attained eighteen (18) years of age as defined within <u>Tennessee Code Annotated</u>, § 7-51-1401.
- (2) "Adult-bookstore" means a business which offers, as its principal stock or trade, sexually oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults as defined within <u>Tennessee Code Annotated</u>, §§ 7-51-1102 and 7-51-1401.
- (3) "Adult-cabaret" means an establishment which features as a principal use of its business, entertainers and/or waiters and/or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie, or latex covering. "Adult cabaret" includes a commercial establishment, which features entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers, as defined within Tennessee Code Annotated, §§ 7-51-1102 and 7-51-1401.
- (4) "Adult-entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a principal portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or other personal service offered customers, as defined within Tennessee Code Annotated, §§ 7-51-1102 and 7-51-1401.
- (5) "Adult-mini motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons principally used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined within this chapter for observation by patrons therein, as defined within Tennessee Code Annotated, §§ 7-51-1102 and 7-51-1401.
- (6) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons principally used for presenting material having as a dominant theme or presenting, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below, for observation by patrons therein as defined within <u>Tennessee Code Annotated</u>, §§ 7-51-1102 and 7-51-1401.
- (7) "Adult-oriented establishment" includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, and further "adult-oriented establishment" means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms,

compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "Adult-oriented establishment" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import, as defined within <u>Tennessee Code Annotated</u>, §§ 7-51-1102 and 7-51-1401.

- (8) "Beastiality" means sexual activity, actual or simulated, between a human being and an animal, as defined within <u>Tennessee Code Annotated</u>, §§ 7-51-1401.
- (9) "Employee" means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated as employee, independent contractor, agent, or otherwise, and whether or not such person is paid a salary, wage, or other compensation by the operator of such business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102.
- (10) "Entertainer" means any person who provides entertainment within an "adult-oriented establishment" as defined within this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort or an independent contractor, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102.
- (11) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort, as defined within Tennessee Code Annotated, § 7-51-1102.
- (12) "Escort service" means a "person" as defined within this chapter, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102.
- (13) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture or death, as defined within Tennessee Code Annotated, § 7-51-1401.
- (14) "Massage parlor" means an establishment or place principally in the business of providing massage or tanning services where one (1) or more of

the employees exposes to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102

- (15) "Operator" means any person, partnership or corporation operating, conducting or maintaining and adult-oriented establishment, as defined within Tennessee Code Annotated, § 7-51-1102.
- (16) "Person" means an individual, partnership, limited partnership, firm, corporation, or association, as defined within <u>Tennessee Code Annotated</u>, §§ 7-51-1102 and 7-51-1401.
- (17) "Principal" or "principally" means at least thirty-three and one-thirds percent (33 1/3%) of the goods, services, activities or things so described whenever such term is used in this chapter.
- (18) "Rap parlor" means an establishment or place principally in the business of providing nonprofessional conversation or similar service for adults, as defined within Tennessee Code Annotated, § 7-51-1102.
- (19) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture or death upon another person or animal, as defined within Tennessee Code Annotated, § 7-51-1401.
- (20) "Sauna" as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102 means an establishment or place primarily in the business of providing;
  - (a) A steam bath; or
  - (b) Massage services.
- (21) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person, as defined within Tennessee Code Annotated, § 7-51-1102.
- (22) "Sexual gratification" means the "sexual conduct" as defined within the chapter, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102.
- (23) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined within this chapter, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102.
- (24) "Sexually-oriented material" means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1401.

- (25) "Specified anatomical areas" as defined within <u>Tennessee Code</u> <u>Annotated</u>, § 7-51-1102 means
  - (a) Less than completely and opaquely covered:
    - (i) Human genitals;
    - (ii) Pubic region;
    - (iii) Buttocks; and,
  - (iv) 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 opaquely covered.
- (26) "Specified criminal acts" means any of the following offenses as defined by <u>Tennessee Code Annotated</u>: aggravated rape; rape; rape of a child; aggravated sexual battery; sexual battery by a authority figure; sexual battery; statutory rape; public indecency; prostitution; promoting prostitution; distribution of obscene materials; sale, loan or exhibition to a minor of material harmful to minors; the display for sale or rental of material harmful to minors; sexual exploitation of a minor; and especially aggravated sexual exploitation of a minor, as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102.
- (27) "Specified sexual activities" as defined within <u>Tennessee Code Annotated</u>, §§ 7-51-1102 and 7-51-1401 means:
  - (a) Human genitals in a state of sexual stimulation or arousal;
  - $\begin{tabular}{ll} \textbf{(b)} & Acts of human masturbation, sexual intercourse or sodomy;} \\ \textbf{or,} \\ \end{tabular}$
  - (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (28) "Specified services" means massage services, private dances, private modeling, acting as an "escort" as defined within this chapter, and other live "adult entertainment" as defined within this chapter, as defined within Tennessee Code Annotated, § 7-51-1102. (as added by Ord. #612, April 2005, and amended by Ord. #718, May 2009)
- 9-603. <u>Location restrictions</u>. (1) "Adult-oriented establishments," as defined within § 9-602 of this chapter, are prohibited from all parts of the corporate limits of the City of Collegedale except for those areas zoned I-1 Industrial.
- (2) In no case shall an "adult-oriented establishment" be permitted to locate within five hundred feet (500') of any boundary or a residential district (R-1-L, R-1-H, R-2 and R-3), university district (U-1), the mixed-use town center district (MU-TC), or any residential use located within any zoning district boundary. No proposed "adult-oriented establishment" shall be permitted to locate within five hundred feet (500') from the nearest property line of a public recreational park; place of worship; public or private K-12 school; child day care facility; hospital; mortuary; or any other "adult-oriented establishment."

- (3) The distance shall be measured in a straight line from the nearest point on the building or structure used as part of the premises where an "adult-oriented establishment" is proposed to be conducted, to the nearest recorded property line of the premises listed in subsection (2) above. (as added by Ord. #612, April 2005)
- 9-604. <u>License required</u>. (1) Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 7-51-1104 except as provided for in subsection (5), no adult-oriented establishment shall be operated or maintained in the City of Collegedale without first obtaining a license to operate issued by the City of Collegedale.
- (2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any adult-oriented establishment shall contain any other kind of adult-oriented establishment.
- (3) No license or interest in a license may be transferred to any person, partnership, or corporation.
- (4) It is unlawful for any entertainer, employee, escort or operator to knowingly work in or about or to knowingly perform any service directly related to or at the request of the operation of any unlicensed adult-oriented establishment or escort service.
- (5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the final passage of the ordinance comprising this chapter. If a license is not issued within said one-hundred twenty (120) day period, then such existing adult-oriented establishment shall cease to operate. (as added by Ord. #612, April 2005)
- 9-605. <u>Application for license</u>. (1) Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 7-51-1105 any person, partnership or corporation desiring to secure a license shall make application to the city recorder. A copy of the application shall be distributed promptly to the Collegedale Municipal Police Department.
- (2) The application for a license shall be upon a form provided by the City of Collegedale. An application for a license shall furnish the following information under oath:
  - (a) Name and address, including all aliases;
  - (b) Written proof that the individual is at least eighteen (18) years of age;
  - (c) The business, occupation or employment of the applicant in an adult-oriented establishment for five (5) years immediately proceeding the date of the application.

- (d) The adult-oriented establishment or similar business license history of the applicant; whether such applicant, in previously operating in this or any other county, city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation.
- (e) All criminal convictions, forfeiture of bond and pleadings of nolo contendre on charges, except minor traffic violations.
- (f) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (g) The address of the adult-oriented establishment to be operated by the applicant.
- (h) The names and addresses of all persons, partnerships or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to operated, including but not limited to contact purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (i) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (j) If the applicant is a corporation, the application shall specify the name, address, and telephone number of the corporation, the date and the state of incorporation, the name and address of the registered agent for service of process of the corporation, and the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.
- (k) A statement by the applicant that the applicant is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Collegedale Municipal Police Department, the city manager shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed by the applicant. Upon the conclusion of such additional investigation, the city manager shall advise the applicant in writing whether the application is granted or denied.
- (4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of the receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and commissioners at which time the applicant may present evidence as to why the license should not be denied. The board of mayor and

commissioners shall hear evidence as to the basis of the denial and shall affirm or reject the denial of an application at the hearing.

- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, to appear at any reasonable time and place for examination under oath regarding the application or to submit to or cooperate with any investigation required by this chapter constitutes an admission by the applicant that the applicant in ineligible for such license and shall be grounds for denial thereof by the city manager. (as added by Ord. #612, April 2005)
- 9-606. <u>Standards for issuance of license</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 7-51-1106 to receive a license to operate an adult oriented establishment, an applicant must meet the following standards:
  - (1) If the applicant is an individual:
  - (a) The applicant shall he at least eighteen (18) years of age; and
  - (b) The applicant shall not have had a license revoked within five (5) years immediately preceding the date of the application; and
  - (c) The applicant shall not have been convicted of or pleaded nolo contendere to any violation of this chapter within five (5) years immediately preceding the date of the application; and
  - (d) The applicant shall not have been convicted of a "specified criminal act," as defined in <u>Tennessee Code Annotated</u>, § 7-51-1 102, or § 9-602 of this chapter for which:
    - (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
    - (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
    - (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;
    - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
  - (2) If the applicant is a corporation:
  - (a) All officers, directors and stockholders required to be named under <u>Tennessee Code Annotated</u>, § 7-51-1105(b) or § 9-604 of this chapter shall be at least eighteen (18) years of age; and,
  - (b) No officer, director and stockholder required to be named under <u>Tennessee Code Annotated</u>, § 7-51-1105(b) or § 9-604 of this chapter shall have had an adult-oriented establishment license revoked within five (5) years imdiately preceding the date of the application; and,
  - (c) No officer, director or stockholder required to be named under <u>Tennessee Code Annotated</u>, § 7-51-1 105(b) or § 9-604 of this chapter shall have been convicted of or pleaded nolo contendere to any

violation of this part within five (5) years immediately preceding the date of the application; and,

- (d) The applicant or officer, director or stockholder required to be named under <u>Tennessee Code Annotated</u> § 7-51-1105(b) or § 9-604 of this chapter shall not have been convicted of a "specified criminal act," as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102, or § 9-602 of this chapter for which:
  - (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
  - (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
  - (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;
  - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
- (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
  - (a) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
  - (b) All persons having a financial interest in the partnership, joint venture or other type of organization shall not have had a license revoked within five (5) years immediately preceding the date of the application;
  - (c) No applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any violation of this chapter within five (5) years immediately preceding the date of the application; and
  - (d) The applicant or any person having a financial interest required to be disclosed shall not have been convicted of a "specified criminal act," as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102 or § 9-602 of this chapter, for which:
    - (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
    - (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
    - (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;
    - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

- (4) No license shall be issued unless the Collegedale Municipal Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application.
- (5) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in this chapter has elapsed. (as added by Ord. #612, April 2005)
- 9-607. <u>Permit required</u>. Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 7-51-1115, in addition to the license requirement previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city manager. (as added by Ord. #612, April 2005)
- 9-608. <u>Application for permit</u>. (1) Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 7-51-1116 any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city recorder. A copy of the application shall be distributed promptly by the city recorder to the Collegedale Municipal Police Department.
- (2) The application for a permit shall be upon a form provided by the city recorder. An application for a permit shall furnish the following information under oath:

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- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
  - (c) The applicant's height, weight, color of eyes and hair.
- (d) The adult-oriented establishment or similar business permit history of the applicant; whether such person, in previously operating in this or any or city or state under permit, has had such permit revoked of suspended, the reason therefor, and the business activity or occupation subject to such suspension or revocation.
- (e) All criminal convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (f) Two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (g) A statement by the applicant that the applicant is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Collegedale Municipal Police Department, the city manager shall notify the applicant that the applicant's application is granted, denied or held for further investigation. Such additional investigation shall not exceed an

additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city manager shall advise the applicant in writing whether the application is granted or denied.

- (4) Wherever an application is denied or held for additional investigation the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter by the board of mayor and commissioners at which time the board of mayor and commissioners shall hear evidence as to the basis of the denial and shall affirm or reject the denial of an application at the hearing.
- (5) Failure or refusal of the applicant to give information relevant to the investigation of the application, or the applicants refusal or failure to appear at any reasonable time and place for examination ugder oath regarding said investigation required by this chapter, shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof by the city recorder. (as added by Ord. #612, April 2005)
- 9-609. <u>Standards for issuances of permit</u>. Pursuant to the <u>Tennessee Code Annotated</u>, § 7-51-1117 to receive a permit as an entertainer or escort, an applicant must meet the following standards:
  - (1) The applicant shall be at least eighteen (18) years of age;
- (2) The applicant shall not have had a permit revoked within two (2) years immediately preceding the date of the application;
- (3) The applicant shall not have been convicted of a "specified criminal act," as defined within this chapter and <u>Tennessee Code Annotated</u>, § 7-51-1102 for which:
  - (a) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
  - (b) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
  - (c) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;
  - (d) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
- (4) An applicant who has been convicted of any specified criminal activities may not be denied a permit based upon those convictions once the time period required in subsection (3) has elapsed.
- (5) No permit shall be issued until the Collegedale Municipal Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city recorder no later than thirty (30) days after the date of the application. (as added by Ord. #612, April 2005)

- 9-610. <u>Fees.</u> (1) Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 7-51-1118 and the provisions of this chapter 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 to the applicant.
- (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 to the applicant. (as added by Ord. #612, April 2005)
- 9-611. <u>Display of license or permit</u>. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (2) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Collegedale Municipal Police Department, or any person designated by the board of mayor and commissioners. (as added by Ord. #612, April 2005)
- 9-612. Renewal of license or permit. (1) Every license issued pursuant to this chapter and Tennessee Code Annotated, § 7-51-1111 shall terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city recorder. 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 city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder to Collegedale Municipal Police Department. The application for renewal shall contain such information and data, given under oath or affirmation, as may be required by the Collegedale Mayor and Board of Commissioners.
- (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 thirty (30) days before the license expires. If the application is denied, one half (1/2) the fee shall be returned.
- (3) If the Collegedale Municipal Police Department is aware of any information bearing on the operator's qualifications, the information shall be filed in writing with the city recorder no later than ten (10) days after the date of the application for renewal.
- (4) Every permit issued pursuant to this chapter shall terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before an entertainer is allowed to provide entertainment in an adult-oriented establishment in the following calendar year. Any entertainer desiring to renew a permit shall make application to the city recorder. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be filed in triplicate with and

dated by the city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder to the Collegedale Municipal Police Department. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and commissioners.

- (5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty fee of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires. If the application is denied, one half (1/2) of the fee shall be returned.
- (6) If the Collegedale Municipal Police Department is aware of any information bearing on the entertainer's qualifications, the information shall be filed in writing with the city recorder no later than ten (10) days after the date of the application for renewal.
- (7) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this chapter for the original license applications and permit applications. In the event a license renewal application or permit application is denied, the applicant shall have all rights of appeal to the board of mayor and commissioners as set forth within this chapter. (as added by Ord. #612, April 2005)
- 9-613. <u>Revocation of license or permit</u>. (1) Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 7-51-1109 the city recorder shall revoke, suspend or annul a license for any of the following reasons:
  - (a) Discovery that false or misleading information or data were given on any application or material facts were omitted from any application;
  - (b) The operator or entertainer, or any employee of the operator violates any provision of this chapter or any rule or regulation adopted by the board of mayor and commissioners pursuant to this chapter; provided that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a license suspension of thirty (30) days if the board of mayor and commissioners shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge;
    - (c) The operator becomes ineligible to obtain a license;
  - (d) Any cost or fee required to be paid by this chapter is not paid;
  - (e) Any intoxicating liquor, malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult-oriented establishment;

- (f) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit;
- (g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material;
- (h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold;
- (i) Any operator who fails to maintain the licensed premises in a clean, sanitary and safe condition;
- (j) Any operator, employee or entertainer is convicted of a "specified criminal act," as defined within <u>Tennessee Code Annotated</u>, § 7-51-1102 or § 9-602 of this chapter, provided that such violation occurred on the licensed premises.
- (2) The city recorder, before revoking or suspending any license or permit, shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the board of mayor and commissioners. In the event the license holder or permit holder does not request in writing a hearing before the board of mayor and commissioners within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.
- (3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator.
- (4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation. (as added by Ord. #612, April 2005)
- 9-614. <u>Hours of operation</u>. (1) Pursuant to the provisions of <u>Tennessee Code Annotated</u>, §§ 7-51-1112 and 7-51-1402 no adult-oriented establishment shall open to do business before eight o'clock A.M. (8:00 A.M), Monday through Saturday; and no such establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult-oriented establishment

- shall be open for business on any Sunday or legal holiday as designated in <u>Tennessee Code Annotated</u>, § 15-1-101.
- (2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Collegedale Municipal Police Department or such other persons as the board of mayor and commissioner may designate. (as added by Ord. #612, April 2005)
- 9-615. <u>Physical design of the premises</u>. Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 7-51-1403 and the provisions of this chapter no person shall own, operate, manage, rent, lease or exercise control over any commercial building, structure, premises or portion or part thereof, which is an adult-oriented establishment and which contains:
- (1) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition; or,
- (2) Booths, stalls, or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions of a room or individual rooms so used shall have at least one (1) side open to adjacent public rooms so that the area inside is visible to persons in adjacent public rooms. Such areas shall be lighted in a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of motion pictures or other offered entertainment. (as added by Ord. #612, April 2005)
- 9-616. Responsibilities of the operator. (1) Pursuant to Tennessee Code Annotated, § 7-51-1113 and the provisions of this chapter the operator shall maintain a register of all employees, showing the name, the aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and commissioners. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
- (2) The operator shall make the register of employees available immediately for inspection by the Collegedale Municipal Police Department upon demand of a member of the Collegedale Municipal Police Department at all reasonable times.
- (3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to

supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

- (4) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (5) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined within § 9-602 of this chapter.
- (6) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.
- (7) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.
- (8) The license shall be conspicuously displayed in the common area of the premises at all times.
- (9) The permit shall be kept by an employee, entertainer, or escort so that it is readily available for display immediately upon request of a customer, any member of the Collegedale Municipal Police Department, or any person designated by the board of mayor and commissioners.
- (10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

"This Adult-Oriented Establishment is regulated by <u>Tennessee Code</u> <u>Annotated</u>, Title 7, Chapter 51, Sections 1101 through 1120. Entertainers are:

- (a) Not permitted to engage in any type of sexual conduct;
- (b) Not permitted to expose their sex organs;
- (c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion;
- (d) Not permitted to appear in a state of full nudity." (as added by Ord. #612, April 2005)
- 9-617. <u>Prohibitions and unlawful sex acts</u>. (1) Pursuant to the provisions of <u>Tennessee Code Annotated</u>, § 7-51-1114 no operator, entertainer or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow, patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.
- (2) No operator, entertainer or employee of an adult-oriented establishment shall encourage or permit any person upon the premises to touch,

caress or fondle the breasts, buttocks, anus or genitals of any operator, entertainer or employee.

- (3) No entertainer, employee, or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee, and/or customer.
- (4) No employee or entertainer, while on the premises of an adult-oriented establishment, may:
  - (a) Engage in sexual intercourse;
  - (b) Engage in deviant sexual conduct;
  - (c) Appear in a state of nudity;
  - (d) Fondle such person's own genitals or those of another.
- (5) For the purpose of this section, "nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. (as added by Ord. #612, April 2005)
- 9-618. <u>Penalties and prosecution</u>. (1) Pursuant to <u>Tennessee Code Annotated</u>, § 7-51-1119 any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding five hundred dollars (\$500.00) and shall result in the suspension or revocation of any permit or license.
- (2) 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. #612, April 2005)
- 9-619. <u>Severability clause</u>. If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason such decision shall not affect the validity of the remaining portions of this chapter. (as added by Ord. #612, April 2005)

#### TITLE 10

#### ANIMAL CONTROL

#### **CHAPTER**

- 1. DEFINITIONS.
- 2. IN GENERAL.
- 3. DOGS AND CATS.
- 4. MUNICIPAL DOG PARK.
- 5. LARGE AND SMALL ANIMALS.

#### CHAPTER 1

#### **DEFINITIONS**

- 10-101. Definitions.
- 10-102. [Deleted.]
- 10-103. [Deleted.]
- 10-104. [Deleted.]
- 10-105. [Deleted.]
- 10-106. [Deleted.]
- 10-107. [Deleted.]
- 10-101. <u>Definitions</u>. Whenever used in this title, the following definitions shall apply:
- (1) "Animal." Any live, vertebrate or invertebrate creature, domestic or wild, warm or cold blooded, other than a human being.
- (2) "Animal control officer." A person or persons designated by the city manager to carry out the provisions of this chapter including the impoundment of animals.
- (3) "Animal shelter." An agency, organization, or premises designated by the city for the purpose of impounding and caring for any animal impounded pursuant to the provisions of this chapter.
- (4) "At large." Any animal shall be deemed to be at large when it is off the property of its owner and not under control of a competent person.
- (5) "Direct control." Means immediate and continuous physical control of an animal (excluding herding dogs, dogs in the process of hunting, police dogs and dogs participating in organized field competition) at all times such as by means of a fence, leash, cord or chain of sufficient strength to restrain the animal.
- (6) "Director of health." The person in charge of the animal shelter in which the impounded animal is kept.

- (7) "Domestic animal." Any tame animal customarily kept by humans for companionship, including but not limited to dogs, cats, certain birds, rabbits, hamsters, gerbils, turtles and the like. A tame animal is subject to the dominion and control of an owner and accustomed to living in or near human habitation.
- (8) "Enforcement officer." Police officer, codes enforcement officer, animal control officer, or any other person or persons designated by the city manager.
- (9) "Exposed to rabies." An animal has been exposed to rabies within the meaning of this chapter if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.
- (10) "Fowl." Domestic breeds of chickens, ducks, geese, turkeys, and guinea fowl.
- (11) "Front yard." The area across a lot bounded by the front lot line and each side lot line. The depth of such yard is the shortest horizontal distance between the front lot line and the nearest portion of the residential structure thereon. It is the required open space, unoccupied by buildings between the road or street right-of-way line and the principal building. If the lot or parcel does not contain a dwelling, a fifty foot (50') minimum setback shall be required from the front lot line.
- (12) "Kennel." An establishment for the breeding, buying, selling, or boarding of dogs or cats.
- (13) "Large animal." Any animal, excluding domestic dogs, weighing over one hundred (100) pounds. Examples include equine species such as horses, mules, or donkeys, wolves, or domestic dog-wolf breeds, bovine species such as cows, oxen, or bison, in addition to llamas, sheep, rams, ewes, goats, deer, and large birds such as emu, ostrich, rhea or similar animals.
- (14) "Owner." Any person, group of persons, or corporation owning, keeping, or harboring animals.
- (15) "Rear yard." The area across a lot bounded by the rear lot line and each side lot line. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest portion of the principal residential structure thereon. It is the required open space, except for accessory buildings as permitted, between the rear property line and the principal building. If the lot or parcel does not contain a dwelling, a fifty foot (50') minimum setback shall be required from the rear lot line
- (16) "Small animal." Any animal weighing less than one hundred (100) pounds, not including domestic cats and dogs.
- (17) "Spayed female." Any female dog or cat which has been operated upon to prevent conception.
- (18) "Vicious." Any animal that attacks a person by biting or in any manner causing injury or the reasonable likelihood of injury; or, one who repeatedly attacks livestock or other domestic animals. However, this definition shall not apply to any animal that bites, attacks, or attempts to attack any person or animal unlawfully upon the animal owner's premises. (1977 Code,

- $\S$  3-101, as replaced by Ord. #706, Jan. 2009, and amended by #1099, July 2021  $\textbf{\it Ch8-07-19-21})$
- 10-102. [Deleted.] (1977 Code, § 3-103, as deleted by Ord. #706, Jan. 2009)
- 10-103. [<u>Deleted</u>.] (1977 Code, § 3-104, as deleted by Ord. #706, Jan. 2009)
- 10-104. [<u>Deleted</u>.] (1977 Code, § 3-105, as deleted by Ord. #706, Jan. 2009)
- 10-105. [ $\underline{\text{Deleted}}$ .] (1977 Code, § 3-106, as deleted by Ord. #706, Jan. 2009)
- 10-106. [Deleted.] (1977 Code,  $\S$  3-107, as deleted by Ord. #706, Jan. 2009)
- 10-107. [Deleted.] (1977 Code,  $\S$  3-108, as deleted by Ord. #706, Jan. 2009)

#### IN GENERAL

- 10-201. Complaints of violation.
- 10-202. Interference.
- 10-203. Violations, civil infractions; civil penalties.
- 10-204. Restraint of animals.
- 10-205. Confinement of animals.
- 10-206. Disposing of dead animals.
- 10-207. [Deleted.]
- 10-208. [Deleted.]
- 10-209. [Deleted.]
- 10-210. [Deleted.]
- 10-211. [Deleted.]
- 10-212. [Deleted.]
- 10-213. [Deleted.]
- 10-214. [Deleted.]
- 10-201. <u>Complaints of violations</u>. Any violations of the provisions of this chapter may be reported to the City of Collegedale by any person or persons observing the violation. For alleged violations under § 10-301 the person or persons making the complaint shall identify themselves to the enforcement officer prior to any action being taken by the city manager or his designee. A record of complaints shall be maintained on file in the Collegedale City Hall by the code enforcement officer. (1977 Code, § 3-101, as repealed and replaced by Ord. #310, § 1, March 1994, and Ord. #706, Jan. 2009)
- 10-202. <u>Interference</u>. No person shall interfere with, hinder, or molest the enforcement officer in the performance of any duty imposed by this chapter or seek to release any animal in the custody of the animal control officer except as herein provided. (1977 Code, § 3-103, as repealed and replaced by Ord. #310, § 1, March 1994, and Ord. #706, Jan. 2009)
- 10-203. <u>Violations, civil infractions; civil penalties</u>. (1) Any violation of this chapter is a civil infraction.
- (2) Any person who has committed an act in violation of this chapter may receive a citation from the City of Collegedale:
  - (a) From an enforcement officer who based on personal observation has probable cause to believe that the person has committed a civil infraction; or

- (b) By enforcement officer or by direct complaint by a citizen who has personally observed the civil infraction in violation of this chapter.
- (3) The Collegedale Municipal Court shall have jurisdiction over all violations of this chapter occurring within the City of Collegedale.
- (4) Any violation of this chapter may be punishable by a civil penalty of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Each day that any section of this chapter is violated shall constitute a separate punishable offense.
- (5) Any person issued an animal control ordinance citation may be deemed to be charged with a civil violation and shall comply with the directives on the citation.
- (6) If a person fails to appear in court to defend or prosecute the citation, such person shall be deemed to have waived their right to contest or prosecute the citation and in such a case a default judgment may be entered and the judge shall dismiss the citation or impose a civil penalty at that time, as the case may be. An order to show cause may be issued. If the civil penalty is paid, the case shall be dismissed. If the civil penalty is not paid, judgment may be entered upon to the maximum civil penalty. (1977 Code, § 3-104, as repealed and replaced by Ord. #310, § 1, March 1994, and Ord. #706, Jan. 2009)
- 10-204. Restraint of animals. It shall be the duty of the of the owner of any animal or anyone having an animal in his care, custody or possession to keep said animal under control at all times while the animal is off of the real property limits of the owner, possessor or custodian. For the purposes of this section, an animal is deemed "under control" when it is confined within a vehicle, parked or in motion, is secured by a leash or other device held by a competent person, or is properly confined within an enclosure with permission of the owner of the property where the enclosure is located. (1977 Code, § 3-105, as repealed and replaced by Ord. #310, § 1, March 1994, and Ord. #706, Jan. 2009)
- 10-205. <u>Confinement of animals</u>. (1) <u>Pen or enclosure to be kept clean</u>. When animals 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. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any animal.
- (2) Adequate food, water, and shelter, etc., to be provided. No animal 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.
- (3) <u>Inspections of premises</u>. For the purpose of making inspections to insure compliance with the provisions of this title, the enforcement 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 is being kept in violation of this chapter. (1977 Code, § 3-106, as repealed and replaced by Ord. #310, § 1, March 1994, and Ord. #706, Jan. 2009)
- 10-206. Disposal of dead animals. It shall be unlawful for any person to leave or place the carcass of any animal which he owns upon any street, alley or lot or to allow the animal to remain on his property. Within twenty-four (24) hours after he has learned of its death, the owner shall have it buried in a pet cemetery, bury it at least three feet (3') beneath the surface of the ground and not closer than three hundred feet (300') to any flowing stream or public body of water, or otherwise have it removed from his property and legally disposed of. (1977 Code, § 3-107, as repealed and replaced by Ord. #310, § 1, March 1994, and Ord. #706, Jan. 2009)
- 10-207. [Deleted.] (1977 Code, § 3-108, as repealed and replaced by Ord. #310, § 1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-208. [Deleted.] (as added by Ord. #310, § 1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-209. [Deleted.] (as added by Ord. #310, § 1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-210. [Deleted.] (as added by Ord. #310,  $\S$  1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-211. [Deleted.] (as added by Ord. #310, § 1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-212.~ [Deleted.] (as added by Ord. #310,  $\S$  1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-213. [Deleted.] (as added by Ord. #310, § 1, March 1994, and deleted by Ord. #706, Jan. 2009)
- 10-214. [<u>Deleted</u>.] (as added by Ord. #685, Jan. 2008, and deleted by Ord. #706, Jan. 2009)

# DOGS AND CATS

- 10-301. Dogs becoming a nuisance.
- 10-302. Confinement of certain dogs.
- 10-303. Vaccination, rabies tags.
- 10-304. Impounding, destruction of violating dogs or cats authorized.
- 10-305. Detention where rabies suspected.
- 10-306. Owner of inoculated dog or cat to be notified of impounding.
- 10-307. Care while in custody.
- 10-308. Redemption of impounded dogs or cats by owner; fees.
- 10-309. Disposition of unclaimed dogs or cats.
- 10-301. <u>Dogs becoming a nuisance</u>. It shall be unlawful for any person to own, keep, possess or maintain any dog in such a manner so as to constitute a public nuisance as provided in this chapter. The following acts or actions by an owner or possessor of any dog are hereby declared to be a public nuisance and are, therefore, unlawful:
- (1) Failure to exercise sufficient restraint necessary to control any dog as required by § 10-302.
- (2) Maintaining a vicious dog other than in a manner as described in  $\S 10-303$ .
- (3) Maintaining any dog that is diseased and/or dangerous to the public health.
- (4) Failure to confine a female dog while in heat in such a manner as described in § 10-303.
- (5) Allowing or permitting any dog to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers, or vegetables.
- (6) Maintaining his or her property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, location, or condition of the dogs on the property.
- (7) Allowing any dog to habitually bark, whine, or howl in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises. For the purposes of this section "habitually" shall mean continuously for a period of ten (10) minutes, or intermittently for one-half (1 1/2) hour or more. (as added by Ord. #706, Jan. 2009)
- 10-302. <u>Confinement of certain dogs</u>. (1) The owner shall confine within a building or secure enclosure every fierce, dangerous, or vicious dog, and shall

- not take such dog out of such building or secure enclosure unless such dog is securely muzzled.
- (2) Every female dog in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female dog cannot come in contact with another dog except for intentional breeding purposes. (as added by Ord. #706, Jan. 2009)
- 10-303. <u>Vaccination, rabies tags</u>. It shall be unlawful for any person to own, keep or harbor any dog or cat which has not been vaccinated against rabies in accordance with <u>Tennessee Code Annotated</u>, §§ 68-8-104, 68-8-107, and 68-8-108. Every dog or cat owner shall attach a metal tag or other evidence of vaccination to a collar which shall be worn at all times by the animal vaccinated; provided, that the collar may be removed in the case of hunting dogs while in chase or returning from the chase. Nothing in this section shall be construed as permitting the use of an unvaccinated dog in either the hunt or chase. (as added by Ord. #706, Jan. 2009)
- 10-304. <u>Impounding, destruction of violating dogs or cats authorized</u>. The animal control officer shall take up and impound any dog or cat found running at large in violation of this chapter; provided that, if any dog or cat so found is sick, injured or of a vicious nature, the animal control officer may humanely destroy such dog or cat immediately. (as added by Ord. #706, Jan. 2009)
- 10-305. Detention where rabies suspected. Every dog or cat which has bitten humans or has been exposed to rabies or which is suspected of having rabies shall be impounded for a period of ten (10) days or more by the animal control officer, or at the option of the owner of such dog or cat, shall be detained in a reputable veterinary hospital on condition that such owner shall make arrangements with such veterinary hospital and shall be liable for the payment of the charges while such dog or cats confined therein. During such confinement the dog or cat shall be under the observation and supervision of the animal control officer, and it shall be released or humanely destroyed by the animal control officer after the termination of the observation period according to instructions from the director of health. The director may order the animal control officer to destroy such dog or cat at any time during the period of observation if evidence is such as to convince the director that the dog or cat has rabies. During the period of observation, the owner of such dog or cat shall be liable for board fees, if such dog or cat is confined at the pound. (as added by Ord. #706, Jan. 2009)
- 10-306. Owner of inoculated dog or cat to be notified of impounding. If any dog or cat seized as provided in this chapter is inoculated, the animal control officer shall give notice by postcard sent by United States mail to the

address of the owner given on the inoculation record, within twenty-four (24) hours after the seizure of such dog or cat. (as added by Ord. #706, Jan. 2009)

- 10-307. <u>Care while in custody</u>. The animal control officer shall provide clean, comfortable and sanitary quarters for all dogs and cats, keeping males and females and vicious dogs in separate stalls, and shall provide a liberal allowance of wholesome food and fresh, clean water and clean bedding. (as added by Ord. #706, Jan. 2009)
- 10-308. Redemption of impounded dogs or cats by owner; fees. The owner of a inoculated dog or cat may claim and redeem it by paying the animal control officer an impoundment fee of ten dollars (\$10.00) and board for each day after the first forty-eight (48) hours of detention at the rate of five dollars (\$5.00) per day. The owner of an un-inoculated dog or cat may claim and redeem it upon payment of the inoculation fee required and impoundment fee of ten dollars (\$10.00) and board for each day such dog or cat is detained at the rate of five dollars (\$5.00) per day; provided, however, that, upon a second offense the above impoundment fee shall be twenty-five dollars (\$5.00) and upon third and subsequent offenses shall be fifty dollars (\$50.00) in addition to the board of five dollars (\$5.00) per day as set out above. (as added by Ord. #706, Jan. 2009)
- 10-309. <u>Disposition of unclaimed dogs or cats</u>. Any registered dog or cat impounded shall be kept for a period of three (3) days after notice to the owner, and if not redeemed within such period may be humanely destroyed or otherwise disposed of. Any unregistered dog or cat impounded shall be kept for three (3) days and if not claimed or redeemed shall be humanely destroyed or otherwise disposed of. (as added by Ord. #706, Jan. 2009)

# MUNICIPAL DOG PARK

- 10-401. Dog parks.
- 10-402. Definitions.
- 10-403. Park operations.
- 10-404. Responsibilities of dog park users.
- 10-405. Children regulations.
- 10-406. Prohibited actions.
- 10-407. Liability.
- 10-408. Enforcement.
- 10-301. <u>Dog parks</u>. There is hereby established within the City of Collegedale a dog park for the purpose of allowing the off-leash exercise of dogs, provided that such dog is under the control of its owner or an attendant who is competent and knowledgeable relative to the behavior of said dog(s). (as added by Ord. #752, Sept. 2010)
- 10-302. <u>Definitions</u>. (1) "Attendant." A person eighteen (18) years or older who brings a dog to the dog park. Such person is expected to be competent and knowledgeable relative to the behavior of, and have control over, said dog(s) at all times while at or inside the facility.
- (2) "Dog park." An enclosed fence facility designated by the City of Collegedale for the purpose of allowing dogs, under the control of their owner or attendant, to exercise and socialize off-leash.
- (3) "Owner." Any person, partnership, or corporation owning, keeping or harboring one (1) or more dogs. A dog shall be deemed to be harbored if it is fed or sheltered for seven (7) consecutive days or more. An owner is deemed an attendant for the purposes of this chapter.
- (4) "Vicious dog." The definition of a "vicious dog" as used in this chapter, shall be:
  - (a) Any dog with a known history of attacks to people or other domestic animals which, when unleashed in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack, or which behaves in a manner that (in the opinion and investigation of the animal control officer and/or any police officer) a reasonable person would believe poses a serious and unjustified imminent threat of physical injury or death to a person or companion animal.
  - (b) Any dog owned or harbored primarily or in the past for the purpose of dog fighting or any dog trained for dog fighting.
  - (c) Exceptions. Not withstanding anything herein to the contrary, no dog shall be considered a vicious dog:

- (i) If a dog has bitten or attacked a person who was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.
- (ii) If another animal or if a child was teasing, tormenting, abusing or assaulting the dog.
- (iii) If a domestic animal was injured while the dog was working as a hunting dog, herding dog or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.
- (iv) If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or an assault.
- (v) If, in performing its duties as a military, correctional or police-owned dog, a dog shall not be considered vicious if the dog attacks or injures a person or domestic animal.
- (vi) If the dog was reacting to pain or injury, or was protecting itself, its kennel or its offspring.
- (5) <u>Visual control</u>. The attendant can see the dog(s) and is within seventy-five feet (75') of the dog(s) at all times.
- (6) <u>Voice control</u>. The attendant is within seventy-five feet (75') of the dog(s), is able to control and recall the dog(s) at all times, and is not allowing the dog(s) to fight with other dogs. A dog under voice control must immediately come to the attendant when so commanded. (as added by Ord. #752, Sept. 2010)
- 10-303. <u>Park operations</u>. The city manager shall have authority to control the dog park and to make reasonable rules for its operation that are consistent with this chapter. The dog park will be operated year-round on a daily basis from sunrise to sunset, unless closed for maintenance or severe weather. (as added by Ord. #752, Sept. 2010)
- 10-304. <u>Responsibilities of dog park users</u>. (1) The attendant must ensure that their dog(s) are legally licensed and have documentation that their dog's vaccinations are up to date.
- (2) Current license and vaccination tags must be displayed on the dog's collar.
- (3) All dogs shall be free of contagious or infectious diseases, be parasite-free both externally and internally, and have no visible wounds or injuries.
- (4) No more than two (2) dogs per attendant are allowed in the dog park.
- (5) The attendant of the dog(s) must be inside the enclosed dog park and have visual and voice control of their dog(s) at all times.

- (6) Dogs shall not be left unattended at or inside the facility.
- (7) All dogs must be wearing a collar, however spiked, choke, and gentle-leader style electronic collars are not permitted.
- (8) The attendant of any dog(s) using the facility must have in his possession a leash that must be attached to said dog(s) when outside the facility area.
- (9) The attendant must fill in any holes dug at the facility by their dog(s).
- (10) The attendant must remove their dog(s) when they become engaged in excessive barking or are fighting with other dogs.
- (11) The attendant of dogs using the facility must use a suitable container to promptly remove any feces deposited by their dog(s) and properly dispose of such waste material in designated receptacles. (as added by Ord. #752, Sept. 2010)
- 10-305. <u>Children regulations</u>. While inside the facility, children six (6) to eighteen (18) years of age shall be accompanied by an adult who is solely responsible for the child's proper behavior and safety. Such children are not permitted to excite or antagonize any dogs using the facility by any means including, but not limited to, shouting, screaming, waving their arms, throwing objects, running at or chasing dogs. Children under six (6) years of age are prohibited from entering the dog park. (as added by Ord. #752, Sept. 2010)
- 10-306. <u>Prohibited actions</u>. To ensure the safety of the dogs and attendants the following are not permitted at the dog park:
  - (1) Animals that are not dogs.
  - (2) Dogs under the age of four (4) months.
  - (3) Female dogs when in heat.
- (4) Dogs deemed to be vicious, or who have a previous history of aggressive behavior toward other animals or humans.
- (5) The use of bicycles, roller blades/skates, skateboards and similar types of exercise equipment.
- (6) Motorized vehicles and devices, except for wheelchairs for the disabled.
  - (7) Glass bottles and similar breakable containers.
  - (8) Alcoholic beverages.
  - (9) Smoking
  - (10) Food of any type, including dog biscuits/treats.
- (11) Professional dog trainers may not use the facility in conjunction with the operation of their business. (as added by Ord. #752, Sept. 2010)
- 10-307. <u>Liability</u>. Users of the dog park shall comply with all rules and regulations governing the use of the facility. The owner and/or attendant is responsible for and liable for all injuries and damages caused by their dog(s).

Use of the dog park shall constitute the implied consent of the dog owner and/or attendant to all conditions of this chapter and shall constitute a waiver of liability to the City of Collegedale to the extent allowed by applicable law. As such, users of the dog park agree and undertake to protect, indemnify, defend, and hold the City of Collegedale harmless for any injury or damage caused by or to their dog(s) during any time that said dog(s) is unleashed at the facility. (as added by Ord. #752, Sept. 2010)

10-308. <u>Enforcement</u>. A person found to be in violation of this chapter and/or the dog park rules established by the city manager is subject to removal from the facility and may be prohibited from future use of the dog park. A violation of the provisions of this chapter is unlawful and will be punished in accordance with the general penalty provisions of the municipal code. (as added by Ord. #752, Sept. 2010)

# LARGE AND SMALL ANIMALS

- 10-501. Swine.
- 10-502. Large animals.
- 10-503. Small animals.
- 10-504. Fowl.
- 10-505. General.
- 10-501. <u>Swine</u>. Swine shall not be kept on any lot or within any structure inside the city limits. (as added by Ord. #1099, July 2021 *Ch8 07-19-21*)
- 10-502. <u>Large animals</u>. (1) Keeping of large animals is limited to the Agricultural District (AG) on lots of two (2) acres or more.
- (2) Each large animal shall have a minimum of ten thousand (10,000) square feet of pasture or exercise area. (as added by Ord. #1099, July 2021  $Ch8_07-19-21$ )
- 10-503. <u>Small animals</u>. (1) Keeping of small animals is limited to the Agricultural District (AG) on lots of one (1) acre or more.
- (2) Each small animal shall have a minimum of five thousand (5,000) square feet of pasture or exercise area. (as added by Ord. #1099, July 2021 *Ch8\_07-19-21)*
- 10-504. <u>Fowl</u>. (1) Keeping of fowl is limited to the Agricultural District (AG) on lots of one (1) acre or more.
- (2) On parcels, lots, or tracts between one and two (1 and 2) acres, five (5) individual fowl may be kept.
- (3) On parcels, lots, or tracts exceeding two (2) acres, two (2) individual fowl per half (1/2) acre of land may be kept up to a maximum of forty (40) fowl.
- (4) Fowl must be contained to a property's rear yard. During non-daylight hours, fowl shall be confined within a henhouse or other enclosure located at least two hundred feet (200') from any adjacent property boundary, dwelling, or other structure. The henhouse must be enclosed on all sides, have a roof and door, and the access doors must be able to be shut and locked. The henhouse must be constructed from substantial materials and be visually compatible with the property.
- (5) The henhouse and enclosure must be maintained so that it is clean, dry, and odor free. All manure or other wastes must be stored in a fully enclosed structure or in airtight containers and must be periodically removed from the property or composted so there is no accumulation of waste material on the property.

- (6) Roosters or other fowl capable of crowing or making similar noises shall not be allowed within one thousand five hundred feet (1,500') of any adjacent property boundary, dwelling, or other structure under separate ownership. (as added by Ord. #1099, July 2021 *Ch8\_07-19-21*)
- 10-505. General. (1) Animals shall be located behind house and within a fenced area or structure suitable to contain the animal and prevent it from leaving its designated area. Housing animals in the front yard of residences is prohibited, including animal cages with or without the animals in them. It shall be unlawful for any person owning any livestock to permit or suffer the livestock to run at large in the city. Any livestock running at large in the city shall be subject to impoundment by a person duly qualified and appointed by the commission for that purpose and may be recovered by the owner on payment of expenses incurred by the city for impounding.
- (2) Animals temporarily brought into the city and kept at an exhibition or holding area or petting zoo or similar event of which the animal is an integral part shall not exceed seventy-two (72) hours.
- (3) Structures where animals are housed, fed, confined or where food is stored, must conform to city code requirements and may not be located nearer than two hundred feet (200') from any adjacent property boundary, or residential dwelling or other structure under separate ownership except as allowed in § 10-505(2).
- (4) No large or small animals shall be allowed on any school ground, pubic park ground, public sidewalk, public right-of-way or other public property unless the area is specifically designed by the city for such animal except as allowed in § 10-505(2). (as added by Ord. #1099, July 2021 *Ch8\_07-19-21*)

# TITLE 11

# MUNICIPAL OFFENSES<sup>1</sup>

# **CHAPTER**

- 1. MISDEMEANORS OF THE STATE ADOPTED.
- 2. ALCOHOL.
- 3. GAMBLING, FORTUNE TELLING, ETC.
- 4. OFFENSES AGAINST THE PERSON.
- 5. OFFENSES AGAINST THE PEACE AND QUIET.
- 6. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
- 7. FIREARMS, WEAPONS AND MISSILES.
- 8. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
- 9. OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, WELFARE.

#### CHAPTER 1

# MISDEMEANORS OF THE STATE ADOPTED

#### SECTION

11-101. Misdemeanors of the state adopted.

11-101. <u>Misdemeanors of the state<sup>2</sup> adopted</u>. 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 city also. Any violation of any such law within the corporate limits is also a violation of this section. (1977 Code, § 10-101)

Animals and fowls: title 10. Housing and utilities: title 12. Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

<sup>2</sup>State law reference

For the definition of "misdemeanor," see <u>Tennessee Code Annotated</u>, sections 39-11-110 and 39-11-111.

<sup>&</sup>lt;sup>1</sup>Municipal code references

# $ALCOHOL^1$

# SECTION

- 11-201. Public drunkenness.
- 11-202. Drinking alcoholic beverages in public, etc.
- 11-201. <u>Public drunkenness</u>. See <u>Tennessee Code Annotated</u>, section 39-17-310; see also title 33, chapter 8. (1977 Code, § 10-228)
- 11-202. <u>Drinking alcoholic beverages in public, etc.</u> It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on premise consumption. (1977 Code, § 10-229)

Sale of alcoholic beverages, including beer: title 8.

State law reference

<sup>&</sup>lt;sup>1</sup>Municipal code reference

See <u>Tennessee Code Annotated</u> section 33-8-203 (<u>Arrest for Public Intoxication</u>, cities may not pass separate legislation).

# GAMBLING, FORTUNE TELLING, ETC.

- 11-301. Gambling.
- 11-302. Fortune telling, etc.
- 11-301. <u>Gambling</u>. See <u>Tennessee Code Annotated</u>, section 39-17-501, et seq. (1977 Code, §§ 10-215 and 10-216, modified)
- 11-302. <u>Fortune telling, etc.</u> It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1977 Code, § 10-235)

# OFFENSES AGAINST THE PERSON

- 11-401. Assault and battery.
- 11-402. Coercing people not to work.
- 11-401. <u>Assault and battery</u>. It shall be unlawful for any person to commit an assault or an assault and battery upon another person. (1977 Code, § 10-201)
- 11-402. <u>Coercing people not to work</u>. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1977 Code, § 10-231)

# OFFENSES AGAINST THE PEACE AND QUIET

- 11-501. Disturbing the peace.
- 11-502. Anti-noise regulations.
- 11-501. <u>Disturbing the peace</u>. 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. (1977 Code, § 10-202)
- 11-502. <u>Anti-noise regulations</u>. 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) <u>Miscellaneous prohibited noises enumerated</u>. 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) <u>Blowing horns</u>. The sounding of any horn or other 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 person in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.
  - (c) <u>Yelling, shouting, etc.</u> 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 person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

- (d) <u>Pets</u>. 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) <u>Use of vehicle</u>. 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) <u>Blowing whistles</u>. 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 city authorities.
- (g) <u>Exhaust discharge</u>. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- 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) <u>Loading and unloading operations</u>. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.
- (k) <u>Noises to attract attention</u>. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

- (l) <u>Loudspeakers or amplifiers on vehicles</u>. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.
- (2) <u>Exceptions</u>. None of the terms or prohibitions hereof shall apply to or be enforced against:
  - (a) <u>Municipal vehicles</u>. Any vehicle of the city while engaged upon necessary public business.
  - (b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it 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 amplified 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. (1977 Code, § 10-234)

# INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

- 11-601. Escape from custody or confinement.
- 11-602. Impersonating a government officer or employee.
- 11-603. Resisting or interfering with an officer.
- 11-604. False emergency alarms.
- 11-601. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1977 Code, § 10-209)
- 11-602. <u>Impersonating a government officer or employee</u>. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1977 Code, § 10-211)
- 11-603. Resisting or interfering with an officer. It shall be unlawful for any person to knowingly resist or in any way physically interfere with or attempt to physically interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1977 Code, § 10-210, as replaced by Ord. #514, Aug. 1998)
- 11-604. <u>False emergency alarms</u>. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1977 Code, § 10-217)

#### FIREARMS, WEAPONS AND MISSILES

# SECTION

- 11-701. Throwing missiles.
- 11-702. Weapons and firearms generally.
- 11-703. Target practice and the discharge of firearms.
- 11-701. <u>Throwing missiles</u>. 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. (1977 Code, § 10-214)
- 11-702. 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. 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 policemen 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 policemen to assist in the discharge of his duties. (1977 Code, § 10-212)
- 11-703. <u>Target practice and the discharge of firearms</u>. It shall be unlawful to target practice with a firearm without the express written consent of the owner of the property, either public or private, where such target practice occurs. Such written consent shall be on the person of the shooter while shooting. It shall further be unlawful to discharge a firearm on any property, public or private, with or without consent, wherein such discharge endangers adjacent or neighboring property, either public or private, or the owners or tenants thereof. It shall further be unlawful to discharge a firearm on any property, public or private, with or without such written consent, wherein such discharge disturbs or endangers nearby residents or businesses.

For the purposes of this section the term "firearms" shall mean any weapon from which a shot is discharged by force of an explosive or a weapon which acts by force of gunpowder, and shall also include all weapons which expel a projectile by means of the expansion of compressed air and/or carbon dioxide; the term "disturbs" shall mean to create a loud or obnoxious noise; the term "endangers" shall mean to discharge a firearm in a manner that shot or projectiles cross or fall on other properties; and the term "nearby" shall mean any property within six hundred (600) feet of the point of firearm discharge.

This section does not apply to any firing range owned and operated by the city for the benefit of its police department or other agencies. (1977 Code,  $\S$  10-213, as amended by Ord. #974, May 2013)

# $\frac{\text{TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH}}{\text{TRAFFIC}}$

#### SECTION

- 11-801. Trespassing.
- 11-802. Malicious mischief.
- 11-803. Interference with traffic.
- 11-804. Trespassing on trains.
- 11-801. <u>Trespassing</u>. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1977 Code, § 10-226)

- 11-802. <u>Malicious mischief</u>. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1977 Code, § 10-225)
- 11-803. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1977 Code, § 10-233)
- 11-804. <u>Trespassing on trains</u>. 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 in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1977 Code, § 10-221)

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, section 39-14-405.

#### OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, WELFARE

- 11-901. Abandoned refrigerators, etc.
- 11-902. Caves, wells, cisterns, etc.
- 11-903. Posting notices, etc.
- 11-904. Spitting.
- 11-905. Curfew for minors.
- 11-906. Smoking.
- 11-907. Camping on city property.
- 11-901. <u>Abandoned refrigerators, etc.</u> It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door.(1977 Code, § 10-223)
- 11-902. <u>Caves, wells, cisterns, etc.</u> It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1977 Code, § 10-232)
- 11-903. <u>Posting notices, etc.</u> No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. (1977 Code, § 10-227)
- 11-904. <u>Spitting</u>. 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. (1977 Code, § 10-230)
- 11-905. <u>Curfew for minors</u>. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 p.m. unless upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1977 Code, § 10-224)
- 11-906. <u>Smoking</u>. Smoking shall be prohibited in all pavilions and playgrounds located within city-owned parks. (as added by Ord. #976, June 2013)
- 11-907. <u>Camping on city property</u>. (1) "Camping" means the erection or use of temporary structures such as tents, tarps, and other temporary shelters

for living accommodation activities such as sleeping, or making preparations to sleep. "Camping" includes, but is not limited to, the laying down of bedding for the purpose of sleeping, storing personal belongings, making any fire, doing any digging or earth breaking or carrying on cooking activities, whether by fire or use of artificial means such as a propane stove or other heat-producing portable cooking equipment.

- (2) It is unlawful for a person to engage in the activity of camping on property owned, operated, leased, or controlled by the city that is not specifically designated for use as a camping area by the city, including but not limited to: any public right-of-way (including public sidewalks), public walking trails, public parks, unless issued a valid and current permit as provided herein.
- (3) The city manager, or his/her designee, may issue a permit for camping as provided under this section when, from a consideration of the application, and such other information as may otherwise be required and/or obtained, he or she finds that:
  - (a) Adequate sanitary facilities are provided and accessible at or near the proposed campsite;
  - (b) Adequate trash receptacles and trash collection are provided; and
  - (c) The camping activity will not unreasonably disturb or interfere with the safety, peace, comfort and repose of private property owners or the general public.
  - (d) The organization granted a permit has insurance coverage in an amount satisfactory to the city manager and can provide adequate proof of the same.

Permits may only be issued to Boy Scout, Girl Scout, church or civic youth organizations or other organizations determined by the city manager or his/her designee to be of a similar nature.

(4) The city manager, or his/her designee, is authorized to revoke or refuse to issue a permit that has been issued if he or she finds lack of current or past compliance with any of the requirements of this section, or of any rule or regulation promulgated in of any ordinance or statute. (as added by Ord. #1100, July 2021 *Ch8\_07-19-21*)

# TITLE 12

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

# **CHAPTER**

- 1. BUILDING CODE.
- 2. PLUMBING CODE.
- 3. ELECTRICAL CODE.
- 4. GAS CODE.
- 5. PROPERTY MAINTENANCE CODE.
- 6. UNSAFE BUILDING ABATEMENT CODE.
- 7. EXISTING BUILDINGS CODE.
- 8. MECHANICAL CODE.
- 9. MANUFACTURED HOMES PERMIT FEES.
- 10. POST DEVELOPMENT STORM WATER ORDINANCE.
- 11. RESIDENTIAL CODE.
- 12. ENERGY CONSERVATION CODE.
- 13. BOARD OF BUILDING CONSTRUCTION APPEALS.

#### CHAPTER 1

# BUILDING CODE

#### **SECTION**

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Permit required.
- 12-104. Fee schedule.
- 12-105. Available in recorder's office.
- 12-106. Violations.

12-101. <u>Building code adopted</u>. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>&</sup>lt;sup>1</sup>Municipal code references

International Building Code,<sup>1</sup> 2018 edition, with appendices A, C, F, G, I, and J as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (Ord. # 235, Nov. 1988, modified; as amended by Ord. #329,§ 1, Aug. 1995; Ord. #502, March 1998, replaced by Ord. #600, Sept. 2004, and amended by Ord. #757, Sept. 2010, Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 *Ch8 07-21-21*)

- 12-102. <u>Modifications</u>. 1. <u>Definitions</u>. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the city manager of the city. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the building code. (1977 Code, § 4-102, as amended by Ord. #235, Nov. 1988, modified, as replaced by Ord. #600. Sept. 2004)
- 12-103. <u>Permit required</u>. 1. A permit must be obtained for any construction or improvement with a valuation of one thousand five hundred dollars (\$1,500.00) or more.
- 2. A home owner who wishes to construct his own home must sign the owner/builder regulation agreement in a form prescribed by the city.
- 3. In the event that installation is complete and construction has progressed prohibiting a normal inspection, the owner or his agent may:
  - a. Uncover and expose the work; or
  - b. Have the work inspected by an engineer licensed in the appropriate field who shall certify in writing that the installation complied with or exceeds the minimum standards set forth in the International Building Code.
- 4. Any required tests or costs incurring from the uncovering or exposing or any work shall be at the expense of the owner or his agent.
- 5. All inspections will be made when requested and one reinspection without additional fee. But upon the second reinspection, and additional fee of fifty dollars (\$50.00) will be required before the second reinspection will be made. There will be a minimum fee of fifty dollars (\$50.00). (1977 Code, § 4-103, as replaced by Ord. #600, Sept. 2004)

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

# 12-104. Fee schedule.

# COLLEGEDALE BUILDING PERMIT FEES

VALUATION TABLE FOR BUILDING PERMITS				
VAL. AT LEAST	BUT NOT MORE THAN	BASE AMOUNT	PLUS PER THOUSAND	
.01	30000.00	0.00	4.20	
30000.01	100000.00	168.00	3.00	
100000.01	500000.00	378.00	2.40	
500000.01	999999999.99	1338.00	1.80	
0.00	0.00	0.00	0.00	

Plan review fees for community buildings only shall be at a rate of .125% of actual contract amount. With the exception of projects required to be reviewed by the Tennessee State Fire Marshal's Office. (1977 Code, § 4-104, as replaced by Ord. #600, Sept. 2004)

12-105. <u>Available in recorder's office</u>. Pursuant to the requirements of the <u>Tennessee Code Annotated</u>, § 6-54-502 one (1) copy of the 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. (as added by Ord. #600, Sept. 2004)

12-106. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (as added by Ord. #600, Sept. 2004)

# PLUMBING CODE<sup>1</sup>

# SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Permit required.
- 12-204. Fee schedule.
- 12-205. Available in recorder's office.
- 12-206. Violations.

12-201. <u>Plumbing code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, § 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the <u>International Plumbing Code</u>,<sup>2</sup> 2018 edition as prepared and adopted by the International Code Council, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (Ord. # 236, Nov. 1988, modified, as amended by Ord. #330,§ 1, Aug. 1995; Ord. #503, March 1998, replaced by Ord. #600, Sept. 2004, and amended by Ord. #757, Sept. 2010, Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 *Ch8\_07-19-21*)

12-202. <u>Modifications</u>. 1. <u>Definitions</u>. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the city manager of this city. Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the plumbing code. (1977 Code, § 4-202, as amended by Ord. #236, Nov. 1988, and replaced by Ord. #600, Sept. 2004)

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

- 12-203. <u>Permit required</u>. 1. A permit must be obtained for the plumbing installation on any new or existing structures when installing or adding plumbing fixtures or piping.
- 2. The plumbing permit must be obtained by a plumbing contractor who holds a Chattanooga or Hamilton County plumbing licence at the journeyman level or above, with the following exceptions:
  - a. A home owner who wishes to do his own plumbing installation who signs the owner/builder regulations agreement in a form prescribed by the city.
- 3. It shall be unlawful for any person to use another person's license or number unless the licensed contractor supervises on the job site.
- 4. In the event that installation is complete and construction has progressed prohibiting a normal inspection, the owner or his agent, may:
  - a. Uncover and expose the work; or
  - b. Have the work inspected by an engineer licensed in the appropriate field who shall certify in writing that the installation complies with or exceeds the minimum standards set forth in the International Plumbing Code.

Any required tests or costs incurring from the uncovering, or exposing or any work shall be at the expense of the owner or his agent.

5. All inspections will be made when requested and one reinspection without additional fee. But upon the second reinspection, and additional fee of fifty dollars (\$50.00) will be required before the second reinspection will be made. There will be a minimum fee of fifty dollars (\$50.00). (1977 Code, § 4-203, as replaced by Ord. #600, Sept. 2004)

# 12-204. Permit fees.

1.	Water line	\$4.80
2.	New fixtures	\$2.40 per fixture
3.	Septic tank	\$9.60
4.	Permit fee	\$9.60 (1977 Code, § 4-204,
nlace	d by Ord #600 Sept 2004)	

- as replaced by Ord. #600, Sept. 2004)
- 12-205. <u>Available in the recorders office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502 of one (1) copy of the plumbing code has been placed on file in the recorder's office and, shall be kept there for the use and inspection of the public. (as added by Ord. #600, Sept. 2004)
- 12-206. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (as added by Ord. #600, Sept. 2004)

# ELECTRICAL CODE<sup>1</sup>

# SECTION

- 12-301. Electrical code adopted.
- 12-302. Enforcement
- 12-303. Permit required
- 12-304. Fee schedule
- 12-305. Available in recorder's office.
- 12-306. Violations.

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 securing the public safety, health, and general welfare National Electrical Code, 2017 edition, as prepared and adopted by the National Fire Protection Association. (1977 Code, § 4-301, as amended by Ord. #331, Aug. 1995, and Ord. #532, June 2000, replaced by Ord. #600, Sept. 2004, amended by Ord. #750, Aug. 2010, and Ord. #890, Nov. 2012, and replaced by Ord. #1059, Aug. 2018 Ch7\_11-4-19)

12-302. <u>Enforcement</u>. The electrical inspector shall be such person as the board of mayor and aldermen 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. (1977 Code, § 4-302, as replaced by Ord. #600, Sept. 2004)

12-303. <u>Permit required</u>. No electrical work shall be done within this city until a permit therefor has been issued by the city manager. 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.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

Fire protection, fireworks and explosives: title 7.

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

- 1. The electrical permit must be obtained by a electrical contractor who holds a Chattanooga or Hamilton County Electrical license at the journeyman level or above, with the following exception:
  - a. A home owner who wishes to do his own electrical installation who signs the owner/builder regulation agreement in a form prescribed by the city.
- 2. It shall be unlawful for any person to use another person's license or number unless the licensed contractor supervises on the job site.
- 3. In the event that installation is complete and construction has progressed prohibiting a normal inspection, the owner or his agent may:
  - a. Uncover and expose the work; or
  - b. Have the work inspected by an engineer licensed in the appropriate field who shall certify in writing that the installation complies with or exceeds the minimum standards set forth in the National Electrical Code.
  - c. All inspections will be made when requested and one reinspection without additional fee. But upon the second reinspection, and additional fee of fifty dollars (\$50.00) will be required before the second reinspection will be made. There will be a minimum fee of fifty dollars (\$50.00)
- 4. Any required tests or costs incurring from the uncovering or exposing of any work shall be at the expense of the owner or his agent. (1977 Code, § 4-303, as replaced by Ord. #600, Sept. 2004)

#### 12-304. Fee schedule.

· · · · · · · · · · · · · · · · · · ·	
Temporary service	\$9.60
Service	\$9.60 plus \$2.50 per 100 amps
Feeder and branch circuits	
a. 0-30 amps	\$1.20
b. 30-100 amps	\$2.40
c. 100 amps or greater	\$3.60 per 100 amps
Permit fee	\$3.60 (1977 Code, § 4-304, as
Ord. #600, Sept. 2004)	
	Service Feeder and branch circuits a. 0-30 amps b. 30-100 amps c. 100 amps or greater

- 12-305. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1977 Code, § 4-305, as replaced by Ord. #600, Sept. 2004)
- 12-306. <u>Violations</u>. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (Ord. #238, Nov. 1988, as replaced by Ord. #600, Sept. 2004, and Ord. #1059, Aug. 2018 *Ch7\_11-4-19*)

# GAS CODE<sup>1</sup>

# 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. Permit required.
- 12-408. Permit fees.
- 12-409. Inspections.
- 12-410. Certi6cates.
- 12-411. Available in recorder's office.
- 12-412. Violations and penalties.
- 12-413. Non-liability.
- 12-401. <u>Title and definitions</u>. This chapter and the code herein adopted by reference shall be known as the gas code of the City of Collegedale 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 city manager.
- (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. (1977 Code, § 4-401, as replaced by Ord. #600, Sept. 2004)
- 12-402. <u>Purpose and scope</u>. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances

Gas system administration: title 19, chapter 2.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the International Fuel/Gas Code, 2018 edition, as prepared and adopted by the International Code Council, Inc. (1977 Code, § 4-402, as amended by Ord. #334, § 1, Aug. 1995; and Ord. #505, March 1998, as replaced by Ord. #600, Sept. 2004, and amended by Ord. #757, Sept. 2010, Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 *Ch8 07-19-21*)

- 12-403. <u>Use of existing piping and appliances</u>. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1977 Code, § 4-403, as replaced by Ord. #600, Sept. 2004)
- 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 ten thousand dollars (\$10,000.00), 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 fist 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

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

conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1977 Code, § 4-404, as replaced by Ord. #600, Sept. 2004)

- 12-405. <u>Gas inspector and assistants</u>. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the city manager. (1977 Code, § 4-405, as replaced by Ord. #600, Sept. 2004)
- 12-406. <u>Powers and duties of inspector</u>. 1. The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.
- 2. The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.
- 3. It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1977 Code, § 4-406, as replaced by Ord. #600, Sept. 2004)
- 12-407. <u>Permit required</u>. 1. No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city recorder; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.
- 2. When only temporary use of gas is desired, the 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. (1977 Code, § 4-407, as replaced by Ord. #600, Sept. 2004)

#### 12-408. Permit fees.

		<u>Unit/Qty.</u>	<u>Unit fee</u>
1.	Permit fee	1	\$6.00
	Floor, furnaces, incinerators,		
	Boilers, or central HVAC	1	\$6.00
	Each additional unit	1	\$1.20
	Wall furnaces, water		
	Heater	1	\$1.20
	Other outlets 1 to 4	1	\$6.00
	Each additional outlet		
	above four	1	\$1.20

- 2. All inspections will be made when requested and one reinspection without additional fee. But upon the second reinspection and additional fee of fifty dollars (\$50.00) will be required before the second reinspection will be made. There will be a minimum fee of fifty dollars (\$50.00). (1977 Code, § 4-408, as replaced by Ord. #600, Sept. 2004)
- 12-409. <u>Inspections</u>. 1. A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.
- 2. A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1977 Code, § 4-409, as replaced by Ord. #600, Sept. 2004)
- 12-410. <u>Certificates</u>. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1977 Code, § 4-411, as replaced by Ord. #600, Sept. 2004)

- 12-411. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1977 Code, § 4-412, as replaced by Ord. #600, Sept. 2004)
- 12-412. <u>Violations and penalties</u>. 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. (as added by Ord. #600, Sept. 2004)
- 12-413. <u>Non-liability</u>. This chapter shall not be construed as imposing upon the city 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 city, 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. (as added by Ord. #600, Sept. 2004)

#### PROPERTY MAINTENANCE CODE

### SECTION

- 12-501. Property maintenance code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations.
- 12-501. Property maintenance 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 International Property Maintenance Code,¹ 2018 edition, as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1977 Code, § 4-501, as amended by Ord. #335, § 1, Aug. 1995; Ord. #506, March 1998, as replaced by Ord. #600, Sept. 2004, and amended by Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 Ch8\_07-19-21)
- 12-502. <u>Modifications</u>. (1) <u>Definitions</u>. Wherever the housing code refers to the "Housing Official" it shall mean the person appointed or designated by the board of mayor and aldermen 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 city manager.
- (2) Section 106 of the housing code is amended by deleting from that section, and all subsections thereto, the words "Housing Board of Adjustments and Appeals," wherever they appear and substituting the words "Zoning Board of Appeals" in each instance.
- (3) Penalty clause deleted. Section 108 of the housing code is deleted. (1977 Code, § 4-502, as amended by Ord. # 271, April 1990, as replaced by Ord. #600, Sept. 2004)
- 12-503. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and

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

inspection of the public. (1977 Code,  $\S$  4-503, as replaced by Ord. #600, Sept. 2004)

12-504. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1977 Code, § 4-504, as replaced by Ord. #600, Sept. 2004)

## UNSAFE BUILDING ABATEMENT CODE

### SECTION

- 12-601. Unsafe building abatement code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations.

12-601. <u>Unsafe building abatement code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506 and for the purpose of regulating buildings and structures to secure the public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, the <u>Standard Unsafe Building Abatement Code</u>, 1985 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 unsafe building abatement code. (Ord. # 258, Sept. 1989, modified, as replaced by Ord. #600, Sept. 2004)

12-602. <u>Modifications</u>. Section 105 of the unsafe building abatement code entitled "Board of Adjustments and Appeals" is deleted in its entirety and the following section 105 is substituted in lieu thereof:

#### SECTION 105 - ZONING BOARD OF APPEALS

The Zoning Board of Appeals is hereby empowered to hear all appeals regarding this code and provide final interpretations of the provisions of this code, subject to all existing provisions relating to quorum, records, and procedures for said board. (Ord. # 269, April 1990, as replaced by Ord. #600, Sept. 2004)

12-603. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502 one (1) copy of the unsafe building abatement code has been placed on file in the recorder's office and shall be kept

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

there for the use and inspection of the public. (as replaced by Ord. #600, Sept. 2004)

12-604. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified. (as replaced by Ord. #600, Sept. 2004)

## ACCESSIBILITY CODE<sup>1</sup>

### SECTION

- 12-701. Accessibility code adopted.
- 12-702. Enforcement
- 12-703. Modifications.
- 12-704. Available in recorder's office.
- 12-705. Violations.

12-701. Accessibility code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 66-54-501 through 6-54-506, and for the purpose of regulating accessibility to a qualified handicap person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodations. In the area of structural modifications, this section may be satisfied by compliance with the American National Standard, Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1-2009), that is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the accessibility code. (Ord. #240, Nov. 1988, modified, as replaced by Ord. #600, Sept. 2004, and amended by Ord. #890, Nov. 2012)

12-702. Enforcement. The building official shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the accessibility code as herein adopted by reference. He is authorized and directed to make such inspections of equipment, 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 service to any person or place not complying with this chapter. (as replaced by Ord. #600, Sept. 2004)

12-703. <u>Modifications</u>. <u>Definitions</u>. Whenever the accessibility code refers to the "Building Official" it shall, for the purposes of the accessibility code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the accessibility code. (as replaced by Ord. #600, Sept. 2004)

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>&</sup>lt;sup>1</sup>Municipal code references

- 12-704. <u>Available in recorder's office</u>. Pursuant to the requirements of the <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the accessibility code has been placed on B e in the recorder's office and shall be kept there for the use and inspection of the public. (as replaced by Ord. #600, Sept. 2004)
- 12-705. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the accessibility code as herein adopted by reference and modified. (as added by Ord. #600, Sept. 2004)

## **MECHANICAL CODE**

### SECTION

- 12-801. Mechanical code adopted.
- 12-802. Modifications.
- 12-803. Permit required.
- 12-804. Available in recorder's office.
- 12-805. Violations.
- 12-801. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems, the International Mechanical Code,¹ 2018 edition as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #241, Nov. 1988, modified; as amended by Ord. #332,§ 1, Aug. 1995; Ord. #504, March 1998, replaced by Ord. #600, Sept. 2004, and amended by Ord. #757, Sept. 2010, Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 *Ch8\_07-19-21*)
- 12-802. <u>Modifications</u>. 1. <u>Definitions</u>. Wherever the mechanical code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of commissioners.

Wherever "City Engineer," "Engineering Department," "Mechanical Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the mechanical code. (Ord. #241, Nov. 1988, modified, as replaced by Ord. #600, Sept. 2004)

- 12-803. <u>Permit required</u>. 1. Any owner authorized agent or contractor who desires to install a mechanical system on commercial buildings, the installation which is regulated by this code, or to cause any such work to be done, shall first make application to the mechanical official and obtain the required permit for the work.
- 2. In the event that installation is complete and construction has progressed prohibiting a normal inspection, the owner or his agent, at his option may:
  - a. Uncover and expose the work; or

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

- b. Have the work inspected by an engineer licensed in the appropriate field who shall certify in writing that the installation complies with or exceeds the minimum standards set forth in the International Code Council.
- 3. Any required tests or costs incurred by uncovering any work are at the expense of the owner or his agent. (as replaced by Ord. #600, Sept. 2004)
- 12-804. <u>Permit fees</u>. The schedule of permit fees as recommended in "Appendix B" of the mechanical code is hereby amended so that the fees to be collected shall be as follows:
- 1. Fee for inspecting heating, ventilating, ductwork, air-conditioning and refrigeration shall be ten dollars (\$10.00) for the first one thousand dollars (\$1,000.00) or fraction thereof, of valuation of the installation plus two dollars and fifty cents (\$2.50) for each additional one thousand dollars (\$1,000.00) or fraction thereof.
- 2. Fee for inspecting repairs, alterations and additions to an existing system shall be six dollars (\$6.00) plus two dollars and fifty cents (\$2.50) for each additional one thousand dollars (\$1,000.00) or fraction thereof.
  - 3. Fee for inspecting boilers (based upon BTU input): 33,000 BTU (1BHp) to 165,000 (5BHp) \$5.00 165,001 BTU (5BHp) to 330,000 (10BHp) \$10.00 330,001 BTU (10BHp) to 1,165,000 (52BHp) \$15.00 1,165,001 BTU (52BHp) to 3,300,000 (98BHp) \$25.00 Over 3,300,000 BTU \$30.00
- 4. All inspections will be made when requested and one reinspection without additional fee. But upon the second reinspection, an additional fee of fifty dollars (\$50.00) will be required before the second reinspection will be made. There will be a minimum fee of fifty dollars (\$50.00). (as replaced by Ord. #600, Sept. 2004)
- 12-805. <u>Available in the recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502 one (1) copy of the mechanical code has been placed on fie in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #600, Sept. 2004)
- 12-806. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. (as added by Ord. #600, Sept. 2004)

## MANUFACTURED HOMES PERMIT FEES

### SECTION

- 12-901. Definitions.
- 12-902. Schedule of fees.
- 12-903. Persons authorized to perform connections.
- 12-901. <u>Definitions</u>. For the purposes of this chapter, the term "mobile home" will be synonymous with manufactured home. (as added by Ord. #451, May 1996, as replaced by Ord. #600, Sept. 2004)
- 12-902. <u>Schedule of fees</u>. (1) <u>Permit fee amounts</u>. The permit fee for single section mobile homes shall be seventy-five dollars (\$75.00). The permit fee for multi-section mobile homes shall be one hundred twenty five dollars (\$125.00).
- (2) <u>Inspections included in fee</u>. One inspection and one re-inspection shall be included in the permit fee. In the event two or more re-inspections are needed an additional fifty dollars (\$50.00) fee will be charged for each additional re-inspection.
- (3) <u>Purpose</u>. Permit fees are established to cover the inspection of electrical, water and sewer connections and compliance with zoning ordinance regulations. (as added by Ord. #451, May 1996, as replaced by Ord. #600, Sept. 2004)
- 12-903. <u>Person authorized to perform connections</u>. (1) <u>Electrical connections</u>. Electrical connections must be performed by a person or persons who hold a Chattanooga or Hamilton County trade license at the journeyman level or above. All electrical connections must meet the city adopted edition of the National Electrical Code.
- (2) <u>Plumbing connections</u>. Plumbing connections must be performed by a person or persons who hold a Chattanooga or Hamilton County trade license at the journeyman level or above. All plumbing connections must meet the city adopted edition of the <u>International Plumbing Code</u>. (as added by Ord. #451, May 1996, as replaced by Ord. #600, Sept. 2004)

## POST DEVELOPMENT STORM WATER ORDINANCE

### SECTION

12-1001. Definitions.

12-1002. Runoff management permits.

12-1003. Sunset clause.

- 12-1001. <u>Definitions</u>. 1. <u>Ordinance-specific terminology</u>. As used herein certain words and abbreviations have specific meanings related to this ordinance. The definition of some, but not necessarily all, such ordinance-specific terms are, for the purposes of this ordinance, to be interpreted as described herein below:
  - a. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of storm water runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. The City of Collegedale herein adopts the applicable portions of the City of Knoxville Best Management Practices (BMP) Manual dated June 2006 for post-development storm water quality.
  - b. "First flush" is defined as the initial storm water runoff from a contributing drainage area which carries the majority of the contributed pollutants. First flush is first three-fourths (3/4)" of runoff.
  - c. "Maintenance agreement" means a legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of storm water management practices.
  - d. "Responsible party" means owners and/or occupants of property within the city area who are subject to penalty in case of default.
  - e. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and discharge resulting from precipitation.
  - f. "Storm water" runoff means flow on the surface of the ground, resulting from precipitation. (as added by Ord. #679, June 2007)
  - 12-1002. <u>Runoff management permits</u>. 1. <u>Mandatory</u>. a. A post development runoff management permit will be required in the following cases:
    - i. Development, redevelopment, and/or land disturbing activity that disturbs one or more acres of land;
    - ii. Development, redevelopment, and/or land disturbing activity that disturbs less than one acre of land if such activity is part of a larger common plan of development that affects one or more acres of land.

- iii. Any development, redevelopment, and/or land disturbing activity that, in the opinion of the city, should incorporate post development storm water controls.
- 2. <u>Runoff management</u>. Site requirements shall include the following items:
  - a. Record drawings;
  - b. Implementation of landscaping and stabilization requirements;
    - c. Inspection of runoff management facilities;
  - d. Maintenance of records of installation and maintenance activities; and
  - e. Identification of person responsible for operation of maintenance of runoff management facilities.

# 3. Application requirements:

- a. Unless specifically excluded by this ordinance, any landowner or operator desiring a post development runoff management permit for a development, redevelopment, and/or land disturbance activity shall submit a permit application on a form provided by the city.
  - b. A permit application must be accompanied by:
  - i. Storm water management plan which addresses specific items as described in the BMP manual;
  - ii. Maintenance agreement for any pollution control facilities included in the plan; and
  - iii. Nonrefundable post development runoff management permit fee of one hundred dollars (\$100.00).
- 4. <u>Building permit</u>. No building permit shall be issued by the city until a post development runoff management permit, where the same is required by this ordinance, has been obtained.
- 5. <u>General performance criteria for post development runoff management</u>. All sites are required to satisfy the following criteria as specified in the BMP manual:
  - a. Through the selection, design, and maintenance of permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter storm water.
  - b. Protect the downstream water environment from degradation.
  - c. Implement additional performance criteria or utilize certain post development storm water management practices to enhance storm water discharges to critical areas with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).
  - d. Implement specific post development storm water treatment practices (STP) and pollution prevention practices for storm water discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."

- 6. Review and approval of application. a. The city staff will review each application for a post development runoff management permit to determine its conformance with the provisions of this ordinance. The city staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the city staff fails to act within the time limit established hereinbefore, an application shall he presumed to be approved by default.
- b. No development shall commence until the post development runoff management permit has been approved by the city staff or until the time limit allowed for review has expired.
- 7. <u>Failure to conform with approved plan</u>. City inspector shall not authorize issuance of a "certificate of occupancy" until runoff management measures complying with an approved plan are fully operational. (as added by Ord. #679, June 2007)
- 12-1003. <u>Sunset clause</u>. After December 31, 2007 this ordinance shall no longer take effect, and shall be deleted in its entirety. (as added by Ord. #679, June 2007)

### RESIDENTIAL CODE

### SECTION

- 12-1101. Residential code adopted.
- 12-1102. Modifications.
- 12-1103. Available in recorder's office.
- 12-1104. Violations.
- 12-1101. <u>Residential code adopted</u>. Pursuant to authority granted by <u>Tennessee Code Annotated</u>, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in new dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the <u>International Residential Code</u>, <sup>1</sup> 2018 edition with appendices A, B, C, E, H, J and M as prepared and adopted by the International Code Council, Inc., and amended as follows:
- (1) Section R101.1 Insert "City of Collegedale Tennessee" in "Name of Jurisdiction"
- (2) Table R301.2(1) adding the following Snow Load "10#", Wind Speed "115", Seismic "C", Weathering "Severe", Frost Line Depth, "12", Termite "Moderate to Heavy", Winter Design Temperature "20°F", Ice Barrier Required, "No", +Flood Hazards, See FIRM, Air Freezing Index, "1500 or Less", and Mean Annual Temperature "59.4°F"
- (3) Section R314.6, Power Source, relating to Smoke Alarms, is amended to create Exception 3 that shall read:

Exception 3. Interconnection and hard-wiring of smoke alarms in existing areas shall not be required where alterations or repairs do not result in the removal or interior walls or ceiling finishes exposing the structure.

- (4) Section R-313 Automatic Fire Sprinkler Systems is deleted in its entirety.
- (5) R Chapter 11 entitled Energy Efficiency of the 2018 International Residential Code is deleted in its entirety. (as added by Ord. #757, Sept. 2010, and amended by Ord. #890, Nov. 2012, and Ord. #1087, Dec. 2020 *Ch8\_07-19-21*)
- 12-1102. <u>Modifications</u>. (1) <u>Definitions</u>. Wherever the residential code refers to the "building official" it shall mean the person appointed or designated by the board of mayor and commissioners to administer and enforce the

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

provisions of the residential code. Wherever the "chief appointing authority" is referred to it shall mean the city manager.

- (2) Section 106 of the residential code is amended by deleting from that section, and all subsections thereto, the words "board of appeals" wherever they appear and substituting the words "zoning board of appeals" in each instance.
- (3) <u>Penalty clause deleted</u>. Section R113.4 of the residential code is deleted. (as added by Ord. #757, Sept. 2010)
- 12-1103. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #757, Sept. 2010)
- 12-1104. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. (as added by Ord. #757, Sept. 2010)

#### ENERGY CONSERVATION CODE

### SECTION

12-1201. Energy conservation code adopted.

12-1202. Available in recorder's office.

12-1203. Violations.

12-1201. Energy conservation 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 energy efficiency and conservation, the International Energy Conservation Code, 12018 edition, as prepared and adopted by the International Code Council, Inc. is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the energy conservation code. (as added by Ord. #757, Sept. 2010, as amended by Ord. #890, Nov. 2012, replaced by Ord. #1059, Aug. 2018 *Ch7\_11-4-19*, and amended by Ord. #1087, Dec. 2020 *Ch8\_07-19-21*)

12-1202. <u>Available in recorder's office</u>. Pursuant to the requirements of <u>Tennessee Code Annotated</u>, § 6-54-502, one (1) copy of the energy conservation code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #757, Sept. 2010)

12-1203. <u>Violations</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference. (as added by Ord. #757, Sept. 2010)

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

#### BOARD OF CONSTRUCTION APPEALS

### SECTION

- 12-1301. Board of building construction appeals established; appointment of members.
- 12-1302. Composition of board.
- 12-1303. Appointment; terms.
- 12-1304. Appeals.
- 12-1305. Unsafe conditions.
- 12-1306. Decisions.
- 12-1307. Action.
- 12-1308. Rules of procedure.
- 12-1309. Quorum.
- 12-1310. Secretary of board.
- 12-1311. Decisions are final.
- 12-1312. Fees.
- 12-1301. <u>Board of building construction appeals established: appointment of members</u>. There is hereby created and established a board to be called the board of building construction appeals which shall consist of three (3) voting members from the City of Collegedale Planning Commission which shall be appointed by the mayor and subject to approval by a majority vote of the Board of Commissioners for the City of Collegedale per the requirements established in this chapter. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1302. <u>Composition of board</u>. The board of building construction appeals shall be composed of the following:
  - (1) One (1) member a State of Tennessee licensed engineer.
  - (2) One (1) member at large from the building industry.
  - (3) One (1) member at large from the public.
- All board members shall be residents of Hamilton County at the time of their appointment and during their term on the board. At the first meeting of the board after the appointment of members of the board created by this chapter, they shall meet and organize electing one (1) of their members to be chairman of the board and one (1) member to be vice chairman. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1303. Appointment; terms. The members shall be nominated by the mayor, subject to city commission confirmation, for terms of four (4) years each. Vacancies shall be filled for a term in the manner in which original appointments are made. Continued absence of any member from regular meetings of the board shall, at the discretion of the mayor, render such member

subject to immediate removal from the board. (as added by Ord. #1090, Feb 2021 *Ch8 07-19-21*)

- 12-1304. <u>Appeals</u>. (1) The owner of a building, structure or service system, or his /her duly authorized agent, may appeal a decision of the building and codes director or his designee to the building construction appeals board whenever any one (1) of the following conditions are claimed to exist:
  - (a) The building and codes director rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a structure or service system;
  - (b) When it is claimed that the provisions of the code (including revisions and new additions thereto) do not apply;
  - (c) That any equally good or more desirable form of installation can be employed in any specific case; or
  - (d) When it is claimed that the true intent and meaning of the code or any of the regulations thereunder have been misconstrued or wrongly interpreted.
- (2) Notice of appeal shall be in writing and filed within thirty (30) days after the decision is rendered by the building and codes director or his designee. An appeal shall be on forms provided by the building and codes director. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1305. <u>Unsafe conditions</u>. In case of a construction project which, in the opinion of the building and codes director, is unsafe, unhealthy, or otherwise creates an issue requiring expedited action in order to foster the public welfare, the building and codes director may limit the time for an appeal to a shorter period. If the director limits the time for appeal, they must put their specific reasons in writing and provide a copy to the property owner. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1306. <u>Decisions</u>. The board of building construction appeals, when appealed to and after a public hearing, may interpret the application of any provision of the city's adopted codes to any particular case when in the board's opinion, the enforcement thereof would cause undue hardship, would be contrary to the spirit and purpose of the adopted code or public interest, or when in the board's opinion the interpretation of the building and codes director should be modified or reversed. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1307. Action. The board shall consider an appeal within forty-five (45) days of its filing and shall reach a decision within thirty (30) days after the initial consideration of the appeal, unless the applicant requests or consents to additional time. Each decision of the board shall also include the basis for its decision, which shall be reduced to writing and signed by the chairman. If a

decision of the board reverses or modifies a decision of the building and codes director, or varies the application of any provision of the adopted code, the building and codes director shall immediately take action in accordance with that decision. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)

- 12-1308. <u>Rules of procedure</u>. The board of building construction appeals may establish guidelines and procedures consistent with the provisions of the adopted codes. The board shall meet at such intervals as it may deem necessary for the proper performance of its duties. A certified copy of the board's decision shall be sent by mail to the appellant and a copy shall be kept in the public records of the building and codes director. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1309. Quorum. Two (2) members of the board of building construction appeals shall constitute a quorum. In varying the application of any provisions of the adopted code or in modifying an order of the building and codes director, affirmative votes of the majority present, but not less than three (3) affirmative votes, shall be required. A board member shall not act in a case in which he or she might have a personal interest. (as added by Ord. #1090, Feb 2021  $Ch8_07-19-21$ )
- 12-1310. <u>Secretary of board</u>. The building and codes director or his designee shall serve as secretary of the board, and shall keep a detailed record of the board's meetings and determinations. Such record shall be a public record filed in the offices of building and codes department. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1311. <u>Decisions are final</u>. Each decision of the board of building construction appeals shall be final, subject only to such review or remedy as may be obtained in a court of law. (as added by Ord. #1090, Feb 2021 *Ch8\_07-19-21*)
- 12-1312. <u>Fees</u>. When a decision of the building and codes director is appealed to the board of building construction appeals, the property owner or applicant shall pay a filing fee of one hundred dollars (\$100.00), which may be refundable at the discretion of the board if the board overturns the decision of the building and codes director. (as added by Ord. #1090, Feb 2021 *Ch8 07-19-21*)

### TITLE 13

## PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

### **CHAPTER**

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

#### CHAPTER 1

# **MISCELLANEOUS**

### **SECTION**

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1977 Code, § 8-405)
- 13-102. <u>Stagnant water</u>. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1977 Code, § 8-406)
- 13-103. <u>Weeds</u>. 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

Animals and fowls: title 10.

Littering streets, etc.: section 16-107.

Toilet facilities in beer places: section 8-213(12).

Wastewater treatment: title 18, chapter 2.

<sup>&</sup>lt;sup>1</sup>Municipal code references

city recorder, or code enforcement officer or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1977 Code, § 8-407, as amended by Ord. #494, § 1, Sept. 1997)

- 13-104. Overgrown and dirty lots.<sup>1</sup> (1) Prohibition. It shall be unlawful for any owner of record of any real property and/or occupant thereof to permit any of the following conditions that would be detrimental to the welfare of the surrounding community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; interfere with the comfort, health, safety, and well being of the public; create, extend, and aggravate urban blight; encourage the infestation of rodents or insects, including but not limited to:
  - (a) Create, maintain, or permit to be maintained on such property the uncontrolled growth of trees, vines, grass, or underbrush;
  - (b) Create, maintain, or permit to be maintained on such property the accumulation of dead or fallen trees and/or tree limbs;
  - (c) Create, maintain, or permit to be maintained on or in such property any unattended excavations or piles of dirt, gravel or other fill material;
  - (d) Allow the accumulation on such property of debris, trash, litter, or garbage.
  - (2) <u>Deleted</u>.
- (3) <u>Designation of public officer or department</u>. The code enforcement officer and/or the code enforcement department, or its duly authorized representative shall be the appropriate department and/or person to enforce the provisions of this section.
- (4) Notice to property owner. It shall be the duty of the department or person designated by the city commission to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be served upon the owner of record, either personally or by certified mail, but if the whereabouts of such person is unknown and the same cannot be

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

<sup>&</sup>lt;sup>1</sup>Municipal code reference

This title, chapter 2.

ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper of general circulation within the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.

- (a) A brief statement that the owner is in violation of section 13-104 of the Collegedale Municipal Code, which has been enacted under the authority of <u>Tennessee Code Annotated</u>, section 6-54-113, and that the property of such owner may be cleaned-up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;
- (b) The person, office, address, and telephone number of the department or person giving the notice;
- (c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and
- (d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the city commission to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Hamilton County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.
- (6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the city commission. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

- (7) <u>Judicial review</u>. Any person aggrieved by an order or act of the city commission under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.
- (8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (as amended by Ord. #494, §§ 2, 3, and 4, Sept. 1997, and Ord. #1058, July 2018 *Ch7 11-4-19*)
- 13-105. <u>Dead animals</u>. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city recorder and dispose of such animal in such manner as the city recorder shall direct. (1977 Code, § 8-408)
- 13-106. <u>Health and sanitation nuisances</u>. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1977 Code, § 8-409)
- 13-107. <u>House trailers</u>. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1977 Code, § 8-404)

## SLUM CLEARANCE<sup>1</sup>

### SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-201. <u>Findings of board</u>. Pursuant to <u>Tennessee Code Annotated</u>, section 13-21-101 et seq., the city commission finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (as amended by Ord. #1058, July 2018 *Ch7\_11-4-19*)
- 13-202. <u>Definitions</u>. (1) "Municipality" shall mean the City of Collegedale, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.
- (2) "Governing body" shall mean the board of commissioners charged with governing the city.
- (3) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to <u>Tennessee Code Annotated</u>, section 13-21-101 et seq.
- (4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

- (5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.
- (6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.
- (7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
- 13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.
- 13-204. <u>Initiation of proceedings; hearings</u>. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer.
- 13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or use; or (2) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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

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

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Hamilton County be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Hamilton County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Collegedale to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. <u>Basis for a finding of unfitness</u>. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Collegedale; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light,

or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness.

- 13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Hamilton County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.
- 13-211. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

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

- 13-212. <u>Additional powers of public officer</u>. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:
- (1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence:
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. <u>Powers conferred are supplemental</u>. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

## **JUNKYARDS**

SECTION 13-301. Junkyards.

13-301. <u>Junkyards</u>. 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. (1977 Code, § 8-410)

<sup>&</sup>lt;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 <u>Hagaman v. Slaughter</u>, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

### TITLE 14

# ZONING AND LAND USE CONTROL

# **CHAPTER**

- 1. [REPEALED.]
- 2. ZONING ORDINANCE.
- 3. AIR POLLUTION CONTROL.
- 4. MUNICIPAL PLANNING COMMISSION.
- 5. STORMWATER RUNOFF REGULATION AND CONTROL.
- 6. MOBILE HOME ORDINANCE.
- 7. LANDSCAPE ORDINANCE.
- 6. MULTI-MODAL TRANSPORTATION STANDARDS.

# CHAPTER 1

# [REPEALED]

# **SECTION**

14-101. [Repealed.]

14-101. [Repealed.] (1977 Code, § 11-101, as repealed by Ord. #699, Sept. 2008)

# ZONING ORDINANCE

# **SECTION**

14-201. Land use to be governed by zoning ordinance.

14-201. <u>Land use to be governed by zoning ordinance</u>. Land use within the City of Collegedale shall be governed by the "Zoning Ordinance of the City of Collegedale, Tennessee," and any amendments thereto.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup>The zoning ordinance and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

# AIR POLLUTION CONTROL

# **SECTION**

14-301. Air pollution control ordinance adopted.

14-301. <u>Air pollution control ordinance adopted</u>. Air pollution prevention, abatement and control within the City of Collegedale shall be governed by Ordinance Number 300, April 1993, and any amendments thereto.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup>Ord. #300, April 1993, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

#### MUNICIPAL PLANNING COMMISSION

### SECTION

- 14-401. Establishment.
- 14-402. Mayor or appointee and one commissioner to be members.
- 14-403. Remaining members.
- 14-404. Terms.
- 14-401. <u>Establishment</u>. The Collegedale Municipal Planning Commission membership is hereby changed from nine (9) members to seven (7) members. Appointments shall be made in accordance with <u>Tennessee Code Annotated</u>, § 13-4-101. (Ord. #449, § 1, April 1996, as replaced by Ord. #770, May 2011, as replaced by Ord. #1064, Jan. 2019 *Ch7\_11-4-19*)
- 14-402. <u>Mayor or appointee and one commissioner to be members</u>. Membership in the Collegedale Municipal Planning Commission shall include the mayor, or a person designated by the mayor in the mayor's place, and one (1) city commissioner elected by the Collegedale City Commission, whose terms on the planning commission shall be concurrent with the terms of the mayor's or commissioner's official elected office. (Ord. #449, § 2, April 1996, as amended by Ord. #700, Oct. 2008)
- 14-403. <u>Remaining members</u>. In accordance with <u>TCA</u> 13-4-101(a) the remaining five (5) members of the planning commission shall be appointed by the mayor. (Ord. #449, § 3, April 1996)
- 14-404. <u>Terms</u>. In accordance with <u>TCA</u> 13-4-101(a) requiring staggered terms for appointed members, the terms of the five (5) appointed members shall be one (1) member for a five (5) year term; one (1) member for a four (4) year term; one (1) member for a two (2) year term; one (1) member for a one (1) year term. Thereafter, the terms of appointed members shall be for five (5) years as the initial appointments expire. (Ord. #449, § 4, April 1996)

#### CHAPTER 5

# STORMWATER RUNOFF REGULATION AND CONTROL

### SECTION

- 14-501. Purpose.
- 14-502. Definitions.
- 14-503. Permit.
- 14-504. Other requirements.
- 14-505 -- 14-509. Reserved.
- 14-510. General.
- 14-511. Discharge rate.
- 14-512. Flood elevation.
- 14-513. Allowable detention facilities.
- 14-514. Detention storage.
- 14-515. Sizing of detention storage and outlet.
- 14-516. Discharge velocity.
- 14-517. Emergency spillway.
- 14-518. Freeboard.
- 14-519. Joint development of control system.
- 14-520. Early installation of control systems.
- 14-521. Flows from upland areas.
- 14-522. Land disturbance of one acre or more.
- 14-523. All land disturbances.
- 14-524 -- 14-529. Reserved.
- 14-530. Preliminary plats.
- 14-531. Requirements for construction plans.
- 14-532. Requirements for final plats.
- 14-533. Drainage and detention design requirements.
- 14-534. Maintenance.
- 14-535. Safety features.
- 14-536. Sediment ponds.
- 14-537. Wet detention ponds.
- 14-538. Property owner shall enter into inspection and maintenance agreement.
- 14-539. Reserved.
- 14-540. Responsibility.
- 14-541. Interpretation.
- 14-542. Appeal.
- 14-543. Penalties for violation.

# DIVISION 1 - GENERAL PURPOSE AND GENERAL REQUIREMENTS

- 14-501. <u>Purpose</u>. The purpose of this chapter is to diminish threats to the public health and safety caused by the runoff of excess stormwater, to reduce the possibilities of hydraulic overloading of the storm sewer system, to reduce economic losses to individuals and the community at large as a result of the runoff of excess stormwater, and to protect and conserve land and water resources, while at the same time ensuring orderly development. The provisions of this chapter are specifically intended to supplement existing ordinances regulating the following:
- (1) The subdivision, layout, and improvement of lands located within the City of Collegedale.
- (2) The excavating, filling, and grading of lots and other parcels or areas.
- (3) The construction of buildings, including related parking and other paved areas, and the drainage of the sites on which those structures and their related parking and other paved areas are located.
- (4) The design, construction, and maintenance of stormwater drainage facilities and systems. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-502. <u>Definitions</u>. For the purposes of this chapter, the following definitions are adopted:
- (1) "Base flood elevation." The elevation delineating the flood level having a one-percent (1%) probability of being equaled or exceeded in any given year (also known as the 100-year flood elevation), as determined from Flood Insurance Rate Maps (FIRMs) or the best available information.
- (2) "Channel." A natural or man-made open watercourse with definite bed and banks which periodically or continuously contains moving water, or which forms a connecting link between two (2) bodies of water.
- (3) "City engineer." The person formally designated by the City of Collegedale as the city engineer.
- (4) "Control elevation." contour lines and points of predetermined elevation used to denote a detention storage area on a plat or site drawing.
- (5) "Detention facility." A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to concurrently detain the excess waters that accumulate behind the outlet.
- (6) "Detention storage." The temporary detaining or storage of stormwater in storage basins, on rooftops, in streets, parking lots, school yards, parks, open space, or other areas under predetermined and controlled conditions, with the rate of drainage therefrom regulated by appropriately installed devices.
  - (7) "Discharge." The rate of outflow of water from any source.

- (8) "Drainage area." The area from which water is carried off by a drainage system, i.e., a watershed or catchment area.
- (9) "Excess stormwater runoff." The rate of flow of stormwater discharged from an urbanized drainage area which is or will be in excess of that rate which represented or represents the runoff from the property prior to the date of this chapter.
- (10) "Floodplain." The special flood hazard lands adjoining a watercourse, the surface elevation of which is lower than the base flood elevation and is subject to periodic inundation.
- (11) "Hydrograph." A graph showing, for a given point on a stream or conduit, the runoff flow rate with respect to time.
- (12) "One hundred-year storm." A precipitation event of twenty-four (24) hours' duration, having a one percent (1%) chance of occurring in any one (1) year.
- (13) "Peak flow." The maximum rate of flow of stormwater at a given point in a channel or conduit resulting from a predetermined storm or flood.
- (14) "Stormwater drainage system." All means, natural or man-made, used for conducting stormwater to, through, or from a drainage area to the point of final outlet including, but not limited to, any of the following: open and closed conduits and appurtenant features, canals, channels, ditches, streams, swales, culverts, streets, and pumping stations.
- (15) "Stormwater runoff." The waters derived from precipitation within a tributary drainage area, flowing over the surface of the ground or collected in channels or conduits.
- (16) "Time of concentration." The elapsed time for stormwater to flow from the most distant point in a drainage area to the outlet or other predetermined point.
- (17) "Two-year storm." A precipitation event having a fifty percent (50%) chance of occurring in any one (1) year.
- (18) "Two-year storm runoff." The stormwater runoff having a fifty percent (50%) probability of occurring in any one (1) year.
- (19) "Upland area." Any land whose surface drainage flows toward the area being considered for development.
- (20) "Watercourse." Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, or banks.
- (21) "Wet bottom detention basin." A basin designed to retain a permanent pool of stormwater after having provided its planned detention of runoff during a storm event. (as added by Ord. #520, June 1999, as replaced by Ord. #996, July 2014)
- 14-503. <u>Permit</u>. Before initiating any activity regulated by this chapter, an applicant shall be required to obtain an approval of the construction plans

by the city which indicates that the requirements of this chapter 5 have been met.

Land disturbance permit fees:

Less than 10,000 sq. ft. disturbed	no fee
10,000 sq. ft. to 0.9999 acres	\$ 100
1.0 - 4.9999 acres	\$ 250
5.0 - 19.9999 acres	\$ 1,000
20.0 - 49.9999 acres	\$ 3,000
50.0-149.9999 acres	\$ 5,000
150.0 + acres	\$10,000
Resubmittal fees*	\$ 500

<sup>\*(</sup>for review of plans due to unaddressed comments) (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014, and Ord. #1085, Aug. 2020 *Ch8 07-19-21*)

14-504. Other requirements. In addition to meeting the requirements of Division 2 and before starting any activity regulated by this chapter, an applicant shall comply with the requirements set forth in all other related ordinances and state statutes and regulations, including but not limited to the Tennessee Department of Environment and Control Construction General Permit and the Hamilton County Water Quality Program. (as added by Ord. #520, June 1999, as replaced by Ord. #996, July 2014)

14-505 -- 14-509. <u>Reserved</u>. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014).

### **DIVISION 2 - SPECIFIC REQUIREMENTS**

- 14-510. <u>General</u>. Sediment shall be maintained on site and excess stormwater runoff shall be detained in connection with any new construction, development, redevelopment or land use change occurring within the City of Collegedale in accordance with the requirements set forth in this chapter 5. Notwithstanding the foregoing, exceptions to this requirement are as follows:
- (1) For stormwater detention, the development of any single-family or two-family lot not a part of a larger development unless the impervious area exceeds ten thousand (10,000) square feet.
- (2) For stormwater detention, the development of commercial, industrial, high density residential or agricultural property in which the increase in the run off rate does not exceed the pre-development rate of run off.
- (3) A determination by the city that the excess runoff from the proposed construction, development, redevelopment or land use change will be insufficient to adversely affect the carrying capacity of the receiving body or watercourse. In this connection and should the city's determination of insufficient adverse effect be sought, the developer shall make available to the

city such hydraulic or hydrologic computations as will support the requested exception. (as added by Ord. #520, June 1999, amended by Ord. #601, Oct. 2004, and Ord. #720, June 2009, and replaced by Ord. #996, July 2014)

- 14-511. <u>Discharge rate</u>. The peak discharge after full development resulting from the proposed development shall not exceed the corresponding peak discharge rate prior to development during storms of 1-year, 2-year, 5-year, 10-year and 25-year return frequency storm as determined at the property line of the development. (as added by Ord. #520, June 1999, as replaced by Ord. #996, July 2014)
- 14-512. <u>Flood elevation</u>. There shall be no detrimental effect on the floodway or the flood elevation during a 100-year storm upstream or downstream of the proposed development area as a result of the proposed development. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-513. <u>Allowable detention facilities</u>. The increased stormwater runoff resulting from proposed development shall be detained by providing for appropriate detention storage as required by this chapter 5. In no case shall the design maximum water elevation of a detention facility be less than one foot (1') below the lowest ground elevation adjacent to, or opening into an existing or future structure or above the elevation of any public street. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-514. <u>Detention storage</u>. Designs for detention storage and related appurtenances shall be submitted to the city for approval. Upon submittal of a design the city shall determine as to those control elevations that shall be entered on the final plat or make a determination as to the necessity for deed restrictions on any particular lot in said subdivision. Where a non-subdivided parcel of land is proposed for development, the city shall make a determination as to the need for covenants to maintain responsibility for mandatory drainage facilities. All said facilities shall be designed and constructed in accordance with the City of Collegedale specifications and shall be located in easements dedicated to the public. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-515. <u>Sizing of detention storage and outlet</u>. (1) The drainage area used in computation will be the total area tributary to the detention storage outlet.
- (2) The developer will be required to submit detailed hydrologic and hydraulic calculations to show that the requirements of this chapter 5 will be met. A unit hydrograph method of analysis (SCS) will be used for detailed hydrologic computations. The hydrologic report shall show and state that there is no increase in the stormwater runoff rates as a result of the development.

- (3) No orifice or flow control opening shall be less than one inch (1") in size. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-516. <u>Discharge velocity</u>. The discharge velocity from detention facilities shall not exceed three feet (3') per second at the property line unless it is determined by the city that greater velocities will not be harmful to the receiving channel. Where the city's determination is requested, the developer shall make available such hydraulic or hydrologic computations as will adequately support the course of action being requested. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-517. <u>Emergency spillway</u>. Emergency spillways shall be provided to permit the safe passage of runoff generated from rainfall events up to the 100-year rainfall event. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-518. <u>Freeboard</u>. Detention storage areas shall have adequate capacity to contain the storage volume of tributary stormwater runoff with at least one foot (1') of freeboard above the water surface during the 100-year rainfall event. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-519. <u>Joint development of control system</u>. Stormwater control systems may be planned in coordination by two (2) or more property owners as long as the potential for damage from stormwater is not increased at intervening locations. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-520. <u>Early installation of control systems</u>. Stormwater control measures shall be installed prior to undertaking other grading of site and a schedule of construction for this purpose shall be submitted prior to construction in the City of Collegedale. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-521. Flows from upland areas. The total drainage area must be used in calculating the allowable release rate. The required storage volume will be based on the project area only, with extraneous flows from upland areas being bypassed or discharged via overflow spillways or other devices. Where storm sewers are required they shall be of such size as will provide sufficient capacity to receive the flow generated by ten-year storm from upland areas. As to the latter and regardless of whether it has occurred in fact, such upland areas shall be deemed to have been fully developed for all purposes of this requirement. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)

- 14-522. <u>Land disturbance of one acre or more</u>. The developer shall comply with the State of Tennessee General NPDES Permit for Stormwater Discharges Associated with Construction Activity, the Hamilton County Water Quality Program and provide copies of each to the city prior to starting construction. (as added by Ord. #520, June 1999, amended by Ord. #684, Nov. 2007, and replaced by Ord. #996, July 2014)
- 14-523. <u>All land disturbances</u>. Land disturbances associated with any new construction, development, redevelopment, or land use change regardless of use shall incorporate into the development plan the following elements as a minimum:
  - (1) Stone construction entrance.
- (2) Silt fence or other sediment retaining device on the low side of the site.
- (3) Temporary seeding of disturbed areas remaining open more than two (2) weeks.
  - (4) Removal of soil tracked into the public right-of-way.
  - (5) Permanent seeded.

A copy of the development plan shall be submitted to the city prior to starting construction. (as added by Ord. #520, June 1999, deleted by Ord. #684, Nov. 2007, and added by Ord. #996, July 2014)

14-524.--14-529. Reserved. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)

#### DIVISION 3

# ADDITIONAL SUBDIVISION AND BUILDING IMPROVEMENT REGULATIONS

- 14-530. <u>Preliminary plats</u>. Information indicating the manner in which the provisions of this chapter are to be met shall be indicated on all preliminary plats. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-531. Requirements for construction plans. Information indicating the manner in which the provisions of this chapter are to be met shall be submitted with all construction plan submissions or any other plan for improvements which falls under the requirements of Division 2. All computations, plans and specifications shall be prepared and sealed by a professional engineer registered in the State of Tennessee. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)

- 14-532. Requirements for final plats. Information indicating the manner in which the provisions of this chapter are to be met shall be submitted with all construction plan submissions or any other plan for improvements which falls under the requirements of § 14-510. All computations, plans, and specifications shall be prepared and sealed by a professional engineer registered in the State of Tennessee. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-533. <u>Drainage and detention design requirements</u>. All subdivisions and other proposed improvements which are subject to the provisions of Division 2 shall incorporate such design features as are required in this chapter 5. Variation from these requirements shall require the approval of the city commission whose action shall be conditioned upon the following:
- (1) That a petition be submitted describing in detail the rationale for the proposed design change.
- (2) That there are special circumstances or conditions affecting the property under consideration such that strict compliance with the provisions of this chapter 5 would deprive the applicant of the reasonable use of his land.
- (3) That the variance is necessary for the preservation and enjoyment of a substantial property right of the proprietor.
- (4) That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the territory in which said property is located. (as added by Ord. #520, June 1999, as replaced by Ord. #996, July 2014)
- 14-534. <u>Maintenance</u>. Designs for detention storage and related appurtenances will incorporate features which facilitate their inspection and maintenance. The designer shall submit an Operation and Maintenance (O&M) plan for any detention facility prior to its approval. The O&M plan will address silt removal, vegetative growth control, erosion control in the structure and the maintenance of the inlet and outlet structures and safety features. All detention facilities may be inspected by the city at such times they deem necessary. If deficiencies, or conditions creating nuisances, are found, the owner shall be required to initiate the necessary corrections with fourteen (14) days after notification, and all deficiencies shall be corrected within thirty (30) days. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-535. <u>Safety features</u>. Designs of detention facilities shall incorporate safety features, particularly at inlets, outlets, on steep slopes, and at any attractive nuisances. These features shall include, but not be limited to, fencing, hand rails, lighting, steps, grills, signs, and other protective or warning devices so as to restrict access. (as added by Ord. #520, June 1999, as replaced by Ord. #996, July 2014)

- 14-536. <u>Sediment ponds</u>. Sediment ponds which are constructed with the intent of being used as a detention pond once the site is stabilized shall be cleaned, graded, stabilized and the control structure modified as required before it will be acceptable to the city. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-537. Wet detention ponds. Wet detention ponds are allowed but will require additional safety features and maintenance requirements due to their appeal. This may include flatter slopes along the normal water line, aeration, a greater level of maintenance and other features to insure safe and proper operation. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-538. <u>Property owner shall enter into inspection and maintenance agreement</u>. The property owner shall enter into an inspection and maintenance agreement for a stormwater detention facility with the city indicating that the owner will be responsible for the operation and maintenance of the facility. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-539. <u>Reserved</u>. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-540. <u>Responsibility</u>. The administration of this chapter shall be the responsibility of the City of Collegedale. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-541. <u>Interpretation</u>. In the interpretation and application of this chapter, the provisions expressed herein shall be held to be the minimum requirements and shall be liberally construed in favor of the City of Collegedale. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)
- 14-542. <u>Appeal</u>. The City of Collegedale Commission is hereby designated as the appeals board for disputes arising from the application of this chapter. The commission shall hear appeals where it is alleged by an appellant that there is error in any order, requirement, decision, grant or refusal made by the city in the enforcement of the provisions of this chapter. (as added by Ord. #520, June 1999, as replaced by Ord. #996, July 2014)
- 14-543. <u>Penalties for violation</u>. (1) <u>General</u>. Any person, firm, organization, association or corporation violating any of the provisions of this chapter 5, including violation of any variances granted under the authority of this chapter 5, shall be deemed guilty of a municipal ordinance and each such person or other entity shall be deemed guilty of a separate offense for each and every day or portion thereof that any violation of any of the provisions of this

code is committed, continued or permitted, and upon conviction of such violation, such person or other entity may be punished by a fine of not less than fifty dollars (\$50.00) and more than five hundred dollars (\$500.00).

- (2) Additional corrective actions. Any building or structure constructed in violation of the provisions of this chapter 5 or any use carried on in violation of this chapter 5 is hereby declared to be a nuisance per se, with any court of competent jurisdiction having the authority to determine that the owner or developer is guilty of maintaining a nuisance per se and to order such nuisance abated. In this connection, the city is hereby authorized to institute any appropriate action or proceeding in any appropriate court to prevent, restrain, correct or abate any violations of this chapter 5.
- (3) The provisions of this chapter are in addition to and not in restriction of limitations or rights that the citizens of the City of Collegedale may have under the common laws of the State of Tennessee. (as added by Ord. #520, June 1999, and replaced by Ord. #996, July 2014)

## CHAPTER 6

# MOBILE HOME ORDINANCE

### SECTION

- 14-601. Definitions as used in this ordinance.
- 14-602. Regulation mobile homes.
- 14-603. Regulating mobile home parks.
- 14-604. Regulating travel trailers and travel trailer parks.
- 14-605. Permit.
- 14-606. Fees for permit.
- 14-607. Application for permit.
- 14-608. Enforcement.
- 14-609. Appeals.
- 14-610. Violation and penalty.

14-601. <u>Definitions as used in this ordinance</u>. Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions where not inconsistent with the context. For the purpose of this ordinance certain words or terms are defined as follows:

The term "shall" is mandatory.

When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular.

Words used in the present tense include the future.

- (1) "Buffer strip." The mobile home park shall be screened on all lot lines by one of the methods given below, as selected by the owner. The requirements may be reduced or eliminated by the board of appeals in those parts of the perimeter where the screen would create a traffic hazard.
  - (a) A greenbelt planting strip, not less than fifteen (15) feet in width. Such greenbelt shall be composed of at least:

One row of deciduous and evergreen trees, spaced not more than fifteen (15) feet apart, at least eight (8) feet tall, and with a minimum trunk diameter of one and one-half (11/2) inches at planting, and one row of shrubs with a ratio of two deciduous to one evergreen shrub, spaced an average of five (5) feet apart. Such shrubs shall be a minimum of thirty (30) inches in height at planting and expected to grow to a height of eight (8) feet in 3 or 4 full growing seasons.

- (b) Natural vegetation can be retained if it meets the intent of this section, or supplemented to meet the intent of this section.
- (c) A sight obscuring screen (either solid or veil block, or some form of fence that is at least 50% opaque and at least six (6) feet high.)

- (2) "Health officer." The director of a city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.
- (3) "Mobile home park." The term mobile home park shall mean any plot of ground on which six (6) or more mobile homes, occupied for dwelling or sleeping purposes, are located.
- (4) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.
- (5) "Mobile home (trailer)." A detached single-family dwelling unit with any of all of the following characteristic:
  - (a) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
  - (b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.
  - (c) Arriving at the site where it is to be occupied as a complete dwelling and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like.
- (6) "Permit (license)." A permit is required for mobile home parks, single mobile homes and travel trailer parks. Fees charged for mobile home and travel trailer parks under the permit requirements are for inspection and the administration of this ordinance.
- (7) "Travel trailer/motor home." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:
  - (a) Can operate independent of connections to external sewer, water and electrical systems;
  - (b) Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities; and/or
  - (c) Is identified by the manufacturer as a travel trailer/motor home.
- (8) "Travel trailer park." The term travel trailer park shall mean any plot of ground on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located. (as added by Ord. #520, June 1999)
- 14-602. <u>Regulation of mobile homes</u>. (1) <u>Location</u>. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of said city where said mobile home is outside of any designated and licensed mobile home park or approved mobile home subdivision (see subdivision regulations) after the date of passage of this ordinance, excepting mobile homes located on licensed mobile home sales lots, and except as provided in § 14-602(2).

- (2) <u>Grandfathered</u>. Any mobile home already placed on a lot outside of a mobile home park on or before the date of passage of this ordinance will be permitted to remain at its present location. Any mobile home site at any location with utility connections and other facilities constructed specifically for utilization as a permanent mobile home parking site, in existence prior to the date of passage of this ordinance, shall be permitted to be utilized for parking and servicing mobile homes hereafter. All nonconforming mobile homes shall comply with chapter 18, Section 18.03 of the Collegedale Municipal Zoning Ordinance.
- (3) <u>License</u>. No mobile home shall be used, placed, stored or serviced by utilities within the City of Collegedale or within any mobile home park in said city unless there is posted near the door of said mobile home a valid Tennessee State License. Mobile homes in mobile home subdivisions and any individually located mobile homes shall be assessed property taxes. (as added by Ord. #546, June 2001)
- 14-603. Regulating mobile home parks. (1) Permit for mobile home park. No place or site within said city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building official in the name of such person or persons for the specific mobile home park. The city building official is authorized to issue, suspend, or revoke permits in accordance with the provisions of this ordinance; see §§ 14-605 and 14-607.

Said existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of said mobile home park.

- (2) <u>Inspections by city building official</u>. The city building official is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building official shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this ordinance.
- (3) Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of sixty (60) days or more, and no mobile home shall be admitted to any park unless it can demonstrated that it meets the requirements of the American Standards Association Code Provisions A-119.1-1963, American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems, or Mobile Homes Manufacturers Association, Mobile Home Standards for Plumbing, Heating and Electrical Systems or any state administered code insuring equal or better plumbing, heating or electrical installations.
- (4) <u>Location and planning</u>. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger

any water supply and shall be in conformity with a plan approved by the city planning commission. All mobile home parks shall be located in the R-3 or U-1 districts as specified in the Collegedale Municipal Zoning Ordinance, with the main park entrance to the located on a collector or arterial street. Signage will be allowed only in conformance with Section 17.05 of the Collegedale Municipal Zoning Ordinance.

- (5) <u>Minimum size of mobile home park</u>. The tract of land for the mobile home park shall comprise an area of not less than five (5) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.
- (6) <u>Minimum number of spaces</u>. Minimum number of spaces completed and ready for occupancy before first occupancy is twelve (12).
- (7) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes and at least fifteen (15) feet end to end spacing between trailers, twenty (20) feet between any trailer and property line and thirty-five (35) feet from the right-of-way of any public street or highway and ten (10) feet from streets within the park. The space between mobile home porches may be at least ten (10) feet and no setback distance is required for garages and storage buildings provided that they are constructed with non-combustible materials or constructed with materials having a one (1) hour minimum fire resistance rating. Garages or storage buildings not meeting these criteria are prohibited. In addition, each mobile home space shall contain:
  - (a) A minimum lot area of three thousand (3,000) square feet;
  - (b) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet;
  - (c) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;
  - (d) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet.
  - (e) In no case shall there be over a two (2) foot differential in elevation from one end of the space to the other.
  - (f) There shall be provided for each mobile home space an appropriate area for an accessory building. As an alternative, a common area may be established to accommodate storage needs for all residents of the mobile home park.
- (8) <u>Common area</u>. A centrally located area shall be provided for recreational manner and shall be well drained and free from flood. The size of this area shall be, at a minimum, ten (10) percent of the total park area.
- (9) <u>Water supply</u>. The mobile home park shall use a public water supply for potable and fire protection purposes. Accordingly, fire hydrants shall

be installed in a manner deemed appropriate by the Collegedale Planning Commission.

- (10) <u>Sewage disposal</u>. Each mobile home space shall be equipped with a three (3) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least five (5) feet horizontally from any drinking water supply line.
- (11) <u>Refuse</u>. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Garbage shall be collected and disposed of in an approved manner.
- (12) Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulation No. 1, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.
- (13) <u>Private streets</u>. Minimum widths of private streets within mobile home parks shall be:

One-way, with no on-street parking	12 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

- (14) <u>Private street or road base</u>. The base shall consist of crushed stone, grade D, class B, compacted to six (6) inches, and constructed as specified in Section 303, Tennessee Department of Highways', <u>Standard Specifications for Road and Bridge Construction</u>, 1968.
- (15) Private street asphaltic concrete surface course (hot mix). The asphaltic concrete surface course (paved surface) shall be constructed with asphaltic concrete (grading E) compacted to two (2) inches with not less than an average weight of two hundred (200) pounds per square yard and constructed as specified in Section 411, 258 through 260 of the Tennessee Department of Highways', Standard Specifications for Road and Bridge Construction (and subsequent revisions), January 1, 1968.

NOTE: Standards and specifications as indicated in the Tennessee Department of Highways', <u>Standard Specifications for Road and Bridge Construction</u>, are subject to periodic revision. Revisions made in Sections 35 and 104 should be incorporated in new road construction.

- (16) <u>Public streets</u>. All public streets within the mobile home park shall meet all minimum requirements for public streets as specified in the Collegedale Subdivision Regulations.
- (17) Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least two (2) car spaces for each lot. Car parking spaces shall be located for convenient access to the mobile home spaces. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.
- (18) <u>Buffer strip</u>. A buffer strip shall be planted along all boundaries of the mobile home park (see definition). (as added by Ord. #546, June 2001, and amended by Ord. #1077, Dec. 2019 *Ch8\_07-19-21*)

# 14-604. Regulating travel trailers and travel trailer parks.

- (1) <u>Location service</u>. It shall be unlawful for any travel trailer to be occupied or serviced outside of any properly designated travel trailer park.
- (2) Permit for travel trailer park. No place or site within said city shall be established or maintained by any person, group of person, or corporation as a trave trailer park unless he holds a valid permit issued by the city building official in the name of such person or persons for the specific travel trailer park. The city building official is authorized to issue, suspend, or revoke permits in accordance with the provisions of this ordinance.
- (3) <u>Inspections by city building official or county health officer</u>. The city building official or county health officer is hereby authorized and directed to make inspections to determine the conditions of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building official or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this ordinance.
- (4) <u>Length of occupancy</u>. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than ninety (90) days.
- (5) <u>Location</u>. Travel trailer parks shall be located in districts as specified in the zoning ordinance of the City of Collegedale.

NOTE: Travel trailer parks, properly regulated, fit well into general commercial complexes in which a variety of complementary facilities are available. Nearby groceries, general stores, filling stations, coin operated

laundries, for example, are often in demand by persons looking for travel trailer parks. A rural park setting, however, may be desirable.

- (6) <u>Minimum size of travel trailer space</u>. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.
- (7) <u>Improvements</u>. Site planning improvements shall conform to the standards established in Regulations VI XX of the <u>State Regulations</u> Governing the construction, Operation and Maintenance of Organized Camps in <u>Tennessee</u>, as provided in Chapter 65, Public Acts of 1965. (as added by Ord. #546, June 2001)
- 14-605. <u>Permit</u>. The following requirements for permits shall apply to any mobile home park, individual mobile home, and travel trailer park within the corporate limits of said city.
- (1) <u>Mobile home parks</u>. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of said city, any mobile home park unless such person or persons shall first obtain a permit therefor. (as added by Ord. #546, June 2001)
- 14-606. <u>Fees for permit</u>. An annual permit fee shall be required for mobile home parks, and travel trailer parks.
- (1) <u>Mobile home parks</u>. The annual permit fee for mobile home parks shall be twenty-five (25) dollars.
- (2) <u>Travel trailer parks</u>. The annual permit fee for each travel trailer park shall be twenty-five (25) dollars. (as added by Ord. #546, June 2001)

# 14-607. Application for permit. (1) Mobile home parks.

- (a) Applications for a mobile home park shall be filled with and issued by the city building official subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:
  - (i) The plan shall be clearly legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
    - (ii) Name and address of owner of record;
    - (iii) Proposed name of park;
    - (iv) North point and graphic scale and date;
  - (v) Vicinity map showing location and acreage of mobile home park;
  - (vi) Exact boundary lines of the tract by bearing and distance;
    - (vii) Names of owners of record of adjoining land;

- (viii) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (ix) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
  - (x) Provisions for water supply, sewerage and drainage;
- (xi) Such information as may be required by said city to enable it to determine if the proposed park will comply with legal requirements; and
- (xii) The applications and all accompanying plans and specifications shall be filed in triplicate.
- (b) Certificates that shall be required are:
  - (i) Owner's certification;
- (ii) Planning commission's approval signed by the secretary; and
- (iii) Any other certificate deemed necessary by the planning commission.
- (2) <u>Individual mobile homes</u>. Applications for individual mobile home permits shall be filed and issued by the city building official. Applicants shall follow established city procedures for securing a building permit. In addition to those procedures, the application shall contain the following:
  - (a) The name of the applicant who is to reside in the mobile home;
    - (b) The location of the mobile home:
    - (c) A description of the mobile home, make, model and year;
  - (d) Any additional information as may be required by said city to enable it to determine if the mobile home and site will comply with all legal requirements.
- (3) <u>Travel trailer parks</u>. Applications for travel trailer parks shall meet the same requirements as contained in § 14-607(1). (as added by Ord. #546, June 2001)
- 14-608. <u>Enforcement</u>. It shall be the duty of the county health officer and city building official to enforce provisions of this ordinance. (as added by Ord. #546, June 2001)
- 14-609. <u>Appeals</u>. (1) <u>Board of appeals</u>. The Collegedale Board of Appeals, as established in the Municipal Zoning Ordinance, shall serve as the appellate body for these regulations, and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building official in the enforcement of this ordinance, may appeal for and receive a hearing by the

board of appeals (advised by the city attorney) for an interpretation of pertinent ordinance provisions. In exercising this power of interpretation of this ordinance, the board of appeals with advice from the city attorney, may, in conformity with the provisions of this ordinance, reverse or affirm any order, requirement, decision or determination made by the building official.

- (2) <u>Appeals from the board of appeals</u>. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the board of appeals and the city attorney may seek review by a court of records of such decision in the manner provided by the laws of the State of Tennessee. (as added by Ord. #546, June 2001)
- 14-610. <u>Violation and penalty</u>. Violations of these regulations will be handled as allowed by the State of Tennessee and the City of Collegedale. (as added by Ord. #546, June 2001)

### CHAPTER 7

# LANDSCAPE ORDINANCE

## SECTION

- 14-701. Intent.
- 14-702. Definitions.
- 14-703. General provisions.
- 14-704. Landscape/plant installation plan submittal requirements.
- 14-705. Hardships.
- 14-706. Landscaped street yard.
- 14-707. Groundcover.
- 14-708. Landscape perimeter.
- 14-709. Screening.
- 14-710. Foundation planting.
- 14-711. Parking lot requirements.
- 14-712. Utility easements.
- 14-713. Plant installation specifications.
- 14-714. Landscape installation requirements.
- 14-715. Tree preservation credits.
- 14-716. Stormwater credits.
- 14-717. Residential (R-1-H, R-1-L, R-2, and AG).
- 14-718. Appeals.
- 14-701. <u>Intent</u>. Collegedale's scenic landscapes are closely tied to the community's quality of life, community identity, and civic pride. These landscapes also form the critical first impressions of potential new employers, homeowners, and tourists, thus affecting Collegedale's economy.

Landscaping provides important environmental benefits such as reducing air pollution and stormwater runoff, improving water quality, and creating wildlife habitats. Landscaping requirements are one of the many tools used for protecting and enhancing a community's scenic quality and visual character of the community.

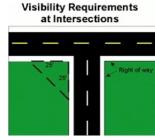
The purpose and intent of this chapter are the following:

- (1) To promote the scenic quality and visual character of the community;
- (2) To improve the appearance of parking areas and property abutting public rights-of-way;
  - (3) To protect property values;
  - (4) To reduce storm water runoff and improve water quality;
  - (5) To provide transition between incompatible land uses:
  - (6) To provide relief from traffic, noise, heat, glare, dust, and debris;
  - (7) To stabilize soil and prevent erosion:

- (8) To encourage preservation of desirable trees; and,
- (9) To filter pollutants from the air and release oxygen. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-702. <u>Definitions</u>. (1) "Caliper." A measurement of the trunk diameter measured at  $2\frac{1}{2}$  feet above grade level.
- (2) "Class 1 shade trees." Any plant having a central trunk, an expected maturity height of at least thirty five feet (35'), and an expected minimum mature canopy spread of twenty feet (20').
- (3) "Gross Floor Area (GFA)" The total interior space as defined by the <u>International Building Code</u>.
- (4) "High density residential." For the purposes of this chapter, high density residential includes zones R-1-H, R-3, and MUTC.
- (5) "Impervious surfaces." Includes concrete, asphalt, brick, metal, gravel or any other material constructed and erected on landscaped or natural buffer areas that impede the percolation of water into the ground.
- (6) "Interior parking bay." All parking bays that do not qualify as a perimeter bay.
- (7) "Landscaped area/landscape yard." An area to be planted with grass, trees, shrubs or other natural ground cover. No impervious surfaces are permitted in these areas with the exception of areas approved and used for ingress and egress.
- (8) "Landscaped peninsula. "A landscaped area defined by a curb and surrounded by paving on three (3) sides.
- (9) "Landscape professional." Includes landscape architects (registered in the State of Tennessee), landscape designers (educated in landscape design concepts), and other landscape professionals as approved by the City of Collegedale.
- (10) "Natural buffer." An area of land set aside for preservation in its natural vegetative state. Plants may not be removed with the exception of poisonous or non-native plant species. In addition, fill/cutting activities, storage of materials, and impervious surfaces are not permitted in these areas.
- (11) "New development." Construction of a new building or structure on its own lot is considered as new development. New buildings or structures constructed on a lot which already contains existing buildings is considered as an expansion.
- (12) "Ornamental shade trees." Any plant having a central trunk, a maximum expected maturity height of twenty feet (20').
- (13) "Perimeter bay." All parking bays that are adjacent to the perimeter of a development.
- (14) "Right-of-way." The area between the property line and the sidewalk/curb, or the edge of pavement is the right-of-way.

- (15) "Screening shrubs." Evergreen shrubs that maintain foliage year-round.
- (16) "Screening trees." Evergreen trees that maintain foliage year-round.
- (17) "Sight triangles (intersection sight distances)." Formed by the intersection of property lines and continues twenty-five (25) feet along the property lines.





- (18) "Street yard." The space between the edge of the right-of-way and the principal building. It is composed of grass and other natural plantings to promote ingress and egress safety and to add visual interest to expanses of surface parking lots. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-703. <u>General provisions</u>. (1) <u>Applicability</u>. The requirements of this section shall apply to:
  - (a) All new development in all zones
  - (b) Existing developments in all zones
  - (i) For existing developments and parking facilities, expansion in gross floor area (GFA) or parking spaces will trigger landscaping requirements based on the scope of work proposed as established below.
  - (ii) Any modifications of landscaping requirements allowing for the expansion of existing manufacturing facility shall be reviewed and approved by the City of Collegedale.
  - (iii) Where both the building expansion and parking lot expansion requirements are applicable, the building expansion requirements shall supercede.
  - (2) <u>Building expansions</u>. When an expansion:
  - (a) Increases GFA at least ten percent (10%) but no more than twenty-five percent (25%), then the entire property shall comply with the landscaped street yard or parking lot landscaping requirements (option of applicant).
  - (b) Increases GFA more than twenty-five percent (25%), then the entire property shall meet all of the landscape ordinance requirements.

- (3) Parking lot expansions. When an expansion:
- (a) Increases the total number of parking spaces no more than twenty-five percent (25%), then the expanded portion of the parking lot shall comply with the landscaping requirements.
- (b) Increases the total number of parking spaces more than twenty-five percent (25%) but no more than fifty percent (50%), then fifty percent (50%) of the existing parking lot(s) within the property and all of any expanded parking lot portions shall comply with the parking lot landscaping requirements.
- (c) Increases the total number of parking spaces more than fifty percent (50%), then the expanded and existing parking lot(s) within the property shall comply with the parking lot landscaping requirements.
- (4) Replacement. Vegetation planted or preserved that does not remain alive shall be replaced with equivalent vegetation. Preserved trees for which credit was awarded but which subsequently die, shall be replaced with a tree of the same variety of at least four inch (4") caliper, and at least eighteen feet (18') in height. The replacement of dead landscape material shall be the responsibility of the current property owner. If any of the material should fail to survive it would be replaced during the appropriate planting season.
- (5) <u>Irrigation</u>. Required landscaping shall be irrigated by one of the following methods for all zones, except R-1-L, R-2, and AG:
  - (a) An underground sprinkler system;
  - (b) Automatic drip system.
- (6) <u>Plant guarantee</u>. Guarantee from the developer and/or owner that all plant materials will be warranted following installation. If the developer sells the property, then the new owner assumes responsibility for maintaining all landscaping. Refer to § 14-704(2)(s).
- (7) <u>Soil and climatic conditions</u>. Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for the growth habits. Native vegetation is preferred. Plants used in the landscape design shall to the greatest extent be:
  - (a) Appropriate to the conditions in which they are to be planted;
    - (b) Have non-invasive growth habits;
    - (c) Encourage low maintenance, high quality design; and,
    - (d) Otherwise consistent with the intent of this ordinance.
  - (8) <u>Sod requirement</u>. Sod shall be used where grass is required.
- (9) <u>Minimum requirements</u>. The requirements within the Landscape Ordinance are the minimum standards. Additional landscaping above and beyond these requirements that help to achieve an aesthetically pleasing site is encouraged by the City of Collegedale. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)

- 14-704. Landscape/plant installation plan submittal requirements.
- (1) Other landscape plan submittal requirements. Three (3) copies of the proposed landscape and/or development site plan shall be submitted to the planning and economic development coordinator.
- (2) Proposed developments subject to the provisions of this section and prior to or at the time of submittal of a site plan shall submit a landscape/plant prepared by a registered landscape architect or by a landscape professional as approved by the City of Collegedale, and all of the requirements of that plan must be fulfilled before a certificate of occupancy may be granted. This landscape/plant installation plan may be incorporated into a site plan, provided the scale is not less than one inch equals forty feet (1" = 40"). The following elements shall be shown on the landscape/plant installation plan:
  - (a) Street yard as required for all non-residential, high density residential, and industrial developments:
  - (b) Interior parking lot landscaping as required for all non-residential, high density residential, and industrial developments;
  - (c) Landscape perimeter as required for all non-residential, high density residential, and industrial developments;
    - (d) Zoning of site and adjoining properties;
  - (e) Existing and proposed contours at two feet (2') intervals or less;
    - (f) Boundary lines and lot dimensions;
  - (g) Date, graphic scale, north arrow, title and name of owner, and the phone number of the person or firm responsible for the landscape plan;
    - (h) Location of all proposed structures and storage areas;
    - (i) Drainage features and 100-year floodplain, if applicable;
  - (j) Parking lot layout including parking stalls, bays, and driving lanes;
    - (k) Irrigation plan;
    - (l) Existing and proposed utility lines, and easements;
    - (m) All paved surfaces and curbs;
  - (n) Existing trees or natural areas to be retained (refer to § 14-715);
  - (o) Location of all required landscaping areas (street yard, landscaped peninsulas, landscaped islands, foundation plantings, and screening buffers);
  - (p) Location, installation size, quantity, and scientific and common names of landscaping to be installed;
    - (q) The spacing between trees and shrubs used for screening;
    - (r) Sight triangles;
    - (s) Plant warranty (signed and dated by the owner):
    - "I (We) hereby guarantee to the City of Collegedale that the plant materials shown on this plan shall remain alive and after issuance

of the final Certificate of Occupancy. Any plant material that dies or is damaged shall be replaced in the next appropriate planting season with equivalent material. If the property is sold, this guarantee shall become the responsibility of the new owner." (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)

- 14-705. <u>Hardships</u>. This section does not intend to create undue hardship on affected properties. The required landscaping should not exceed fifteen percent (15%) of the total area. For existing developments, where the GFA or parking areas are being increased, the loss of off-street parking spaces (required by the City of Collegedale Zoning Ordinance) as a result of compliance with the landscaping provisions should not exceed ten percent (10%).
  - (1) <u>Special administrative remedies</u>. (a) Lots which front on more than one (1) street with the following special exception:
    - (i) All street frontages other than the primary street frontage may have a landscaped street yard with a minimum depth of four feet (4').
  - (2) In situations where the landscape requirements would result in the demolition of an existing building, a loss of more than ten percent (10%) or the gross required off-street parking for an existing development; or, a loss greater than fifteen percent (15%) of the lot area for development, the following administrative remedies may be applied:
    - (i) Reduce the required minimum landscaped area widths up to fifty percent (50%); and,
    - (ii) Reduce the tree planting requirements by up to twenty-five percent (25%).
  - (2) <u>Administrative guidelines</u>. (a) Where possible, reduction of landscaping requirements in one (1) area should be offset by an increase of landscaping requirements in other portions of the site.
  - (b) The first priority is to provide trees and shrubs along the street frontage.
  - (c) The second priority is to provide trees within portions of the parking lot that are highly visible from the street.
  - (d) A screen should always be provided as required by this Section. Where there are space limitations, reduce the landscape yard as necessary. If the planting area is less than five feet (5') in width, require a minimum six feet (6') tall wood or composite fence or masonry wall.
  - (3) Conflict with other articles in the zoning ordinance and existing zoning conditions. (a) Where any requirement of this section conflicts with the requirement of another article of the existing zoning conditions in the City of Collegedale Zoning Ordinance, the most restrictive requirement shall apply. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)

14-706. <u>Landscaped street yard</u>. The landscaped street yard serves to provide an aesthetically pleasing transition from the public right-of-way to private property. This street yard also allows the motorist or pedestrian to see the commercial building's façade but not the parking lots, thus screening the parking areas from view. When a parking lot is located adjacent to a public right-of-way, a strip of landscaping helps shield projecting headlights that may impair the vision of passing motorists or pedestrians therefore creating a safer environment.



(1) <u>Street yard options</u>. The site plan for any non-residential or high density residential development - other than that exempt in § 14-702 exemptions - shall show a landscaped street yard along all public rights-of-way. The applicant may choose one or a combination of the four (4) options illustrated below:

NOTE: The following standards for trees should not be construed as mandating a continuous line of trees spaced in an equidistant fashion within the street yard.

- (a) Ten foot (10') street vard
  - (i) Minimum width:
    - (A) Ten feet (10')
  - (ii) Minimum number of trees required:
  - (A) One (1) Class 1 shade tree, and one (1) ornamental shade tree per thirty-five (35) linear feet of street frontage.
  - (iii) Minimum number of shrubs required:
  - (A) Twelve (12) shrubs per twenty-five (25) linear feet of street frontage. A minimum of fifty percent (50%) of shrubs required shall be evergreen.
- (b) Earth berm
  - (i) Minimum height:

- (A) Two and one-half feet (2 1/2') higher than the finished elevation of the parking lot.
- (ii) Minimum width:
- (A) Three to one (3:1) slope (i.e. fifteen feet (15') in width to two and one half feet (2.5') in height)
- (iii) Minimum number of trees required:
- (A) One (1) Class 1 shade tree and one (1) ornamental shade tree per thirty-five (35) linear feet of street frontage.
- (iv) Minimum number of shrubs:
- (A) Five (5) shrubs per twenty-five (25) linear feet of street frontage. A minimum of fifty percent (50%) of the shrubs required shall be evergreen.
- (c) Six foot (6') street yard:
  - (i) Minimum width:
  - (A) Six feet (6') of landscaped street yard with three feet (3') of fall away from street, and out of the right-of-way.
  - (ii) Minimum number of trees:
  - (A) One (1) Class 1 shade tree and one (1) ornamental tree per thirty-five (35) linear feet of street frontage.
  - (iii) Minimum number of shrubs:
  - (A) Three (3) shrubs per twenty-five (25) linear feet of street frontage. A minimum of fifty percent (50%) of shrubs required shall be evergreen.
- (d) Twenty-five foot (25') street yard
- (i) A landscaped street yard with existing woodlands maintained in twenty-five feet (25') strips along the street frontage.
- (ii) Existing woodlands to be set aside shall have a minimum depth of twenty-five feet (25') as measured from the public street right-of-way.
- (iii) Number of woodland trees (not including prohibited trees) having a minimum caliper of six inches (6") shall equal or exceed the minimum street planting ratio of one (1) Class 1 shade tree and one (1) ornamental tree per thirty-five feet (35') per linear feet;
- (iv) No impervious surfaces are permitted within the protected woodlands area except for approved access points to the site; and,
- (v) No cutting/filling activities or storage or materials/equipment are permitted within the protected woodlands.

- (2) <u>Massing</u>. Massing is multiple rows of alternating plant materials with a combination of trees and shrubs. Massing is strongly encouraged. The maximum distance between massing is twenty-five feet (25'). Massing should be integrated into a bed or in a curb to ease maintenance.
- (3) <u>Sight distances</u>. A sight distances at intersections and points of access must be maintained. No landscaping shall constitute a hazard to traffic, including but not limited to landscaping located within the required sight triangles of an intersection.
- (4) <u>Prohibition</u>. Parking, merchandise display, signage and off-street loading are prohibited in the landscaped street yard.
- (5) <u>Exemptions/special situations</u>. Where overhead power lines encroach into the street yard, smaller ornamental shade trees can be substituted for shade trees. See § 14-713 Plant installation specifications (ornamental shade trees). (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-707. <u>Groundcover</u>. (1) <u>Living material</u>. Living materials, such as sodded grass, shall make up a minimum of eighty percent (80%) of the groundcover for the landscaped street yard. But, one hundred percent (100%) of living materials is encouraged.
- (2) <u>Mulch</u>. Wood mulch or pine straw may make up twenty percent (20%) of the groundcover for the landscaped street yard. Weed barrier shall be required. Gravel, concrete, brick pavers or other pavement is not appropriate groundcover for the street yard.
- (3) <u>Right-of-way</u>. The area between the property line and the sidewalk/curb, or edge of pavement is the right-of-way. A groundcover of fescue sod shall be used in the right-of-way. Mulch is prohibited. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-708. <u>Landscape perimeter</u>. Perimeter landscaping is a peripheral planting strip along rear and side lot lines that separates uses and/or zones. It is used to define parking areas, prevent two adjacent properties from becoming on large expanse of pavement, provide vegetation in densely developed areas, screen vehicular use areas from view of public streets and adjacent uses in accordance with the following standards, and enhance the appearance of individual properties.
- (1) <u>Requirement</u>. The site pan for any non-residential, high density residential, industrial development, other than those exempt, shall show perimeter landscaping, in addition to the landscaped street yard required in § 14-706 Landscaped street yard.
  - (a) Width.
  - (i) A five foot (5') landscaped strip is required along the side and rear lot lines of a development.

- (ii) The five (5) foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.
- (b) Minimum number of trees:
  - (i) One (1) tree per fifty (50) linear feet.
- (c) Continuous visual screen. The planting strip shall contain a continuous hedge composed of a double staggered row of evergreen shrubs with a minimum planting height of thirty inches (30") and maximum center spacing of three feet (3').
- (d) Groundcover. All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.
  - (i) Living material. Living materials, such as sodded grass, shall make up a minimum of eighty percent (80%) of the groundcover for the landscaped perimeter. One hundred percent (100%) of living material is strongly encouraged.
  - (ii) Mulch. Wood mulch or pine straw may make up twenty percent (20%) of the groundcover for the landscaped perimeter. Gravel, concrete, brick pavers or other pavement is not an appropriate groundcover. Weed barrier shall be required.
- (2) <u>Vehicular access</u>. The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.
- (3) <u>Pavement</u>. No pavement may be located within five feet (5') of the property line on any lot unless it is included with an ingress/egress location. (as added by Ord. #577, June 2003, replaced by Ord. #742, April, 2010, amended by Ord. #752, October 2010, and replaced by Ord. #983, Sept. 2013)
- 14-709. <u>Screening</u>. Screening and buffering will be required to provide a transition between land uses and/or zones and protect the integrity of less-intensive uses from more intensive uses. It also provides a year-round visual obstruction and transition between incompatible land uses and/or zones by requiring a landscape yard of a specified minimum depth along the shared property line.



Example: Proper Screening of Commercial Buildin

(1) <u>Procedure</u>. Refer to the matrix below to determine any screening requirements for the proposed development. First, identify the type of zoning for the proposed development (along the left side of the matrix) and each adjoining property (along the top of the matrix). Second, find where the zoning of the proposed development and each adjoin property intersect on the matrix. If a screen is required, a capital letter will indicate the type of screen to be applied. A description of each screen type is provided in this Section.

NOTE: Adjacent land uses within the same zone may require additional screening (to be determined by the City of Collegedale.

	Table 14-709A Screening						
	Adjacent Property						
		Industrial	Commercial	University	High Density	Low Density	
					Residential	Residential	
ed	Industrial	X, D, E	C, E, D	B, E, D	A, E, D	A, E, D	
	Commercial	C, E, D	X, D, E	B, E, D	B, E, D	B, E, D	
ropos	University	C, E, D	C, E, D	X, D, E	B, E, D	B, E, D	
Ö	High Density	A, E, D	B, E, D	C, E, D	C, E, D	C, E, D	
<u> </u>	Residential						
	Low Density	A, E	B, E	C, E	C, E	C*, E	
	Residential						

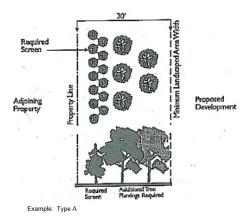
Zoning Districts are not considered to be adjacent if separated by a right-of-way of at least fifty (50) feet in width. \*Nothing in this provision shall require screening between individual single-family lots within a subdivision.

X = No Screen Required

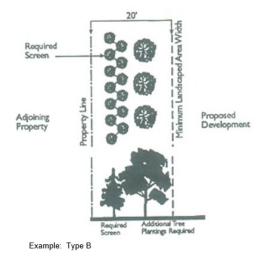
Table 14-708B Zoning Districts*				
Use	Zone			
Industrial	I-1, MUBC			
Commercial	C-1, C-2, C-3, MUTC and MUBC			
University	U-1			
High Density Residential	R-1-H, R-3 and MUTC			
Low Density Residential	R-1-L, R-2 and AG			
*When a mix of uses is involved the landscape shall be determined by the use.				

- (2) <u>Screening type standards</u>. (a) Type A Thirty feet (30') deep landscape yard planted with:
  - (i) Evergreen trees spaced a maximum of ten feet (10') on-center or two (2) staggered rows (spaced a maximum of seven feet (7') apart) of shrubs spaced a maximum of eight feet (8') on-center; and,
  - (ii) Two (2) rows of Class 1 shade trees spaced a maximum of thirty-five feet (35') on-center.

(iii) All plantings shall meet the installation and planting size requirements specified in § 14-713 Plant installation specifications.



- (b) Type B Twenty feet (20') deep landscape yard planted with:
- (i) Evergreen trees spaced a maximum of ten feet (10) on-center or two (2) staggered rows (spaced a maximum of seven feet (7') apart) of shrubs space a maximum of eight feet (8') on-center; and,
- (ii) One (1) row of Class 1 shade trees spaced a maximum of thirty-five feet (35') on-center.
- (iii) All plantings shall meet the installation and planting size requirements specified in § 14-713 Plant installation specifications.



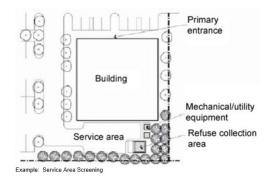
- (c) Type C Ten feet (10') deep landscape yard planted with:
- (i) Evergreen trees spaced a maximum of ten feet (10') on-center or two (2) staggered rows (spaced a maximum of seven feet (7') apart) of shrubs space a maximum of eight feet (8') on-center.

- (ii) All plantings shall meet the installation and planting size requirements specified in § 14-513 Plant installation specifications.
- $(\mbox{\sc d})$   $\quad$  Type D Screening of dumpster to be screened as described below:
  - (i) Screening shall be a minimum height of six feet(6:);
  - (ii) All four (4) sides of the dumpster shall be screened;
  - (iii) The screen should incorporate access to the dumpster by using a wood fence or other opaque device such as a gate. Chain link fencing is not allowed in this application.
  - (iv) Screening materials can be any combination of wood, composite or masonry material.



Example: Properly Screened Dumpster

(e) Type E - Service areas, maintenance areas, equipment areas, outdoor storage (of materials, stock or equipment), loading docks, berths, or similar spaces must be screened from offsite views (as described in Type C or Type D). Building or ground mounted mechanical or electrical equipment (including but not limited to transformers, sprinkler control boxes, pump stations, sewer stations, backflow preventers, telephone risers or equipment cabinets, generators or similar devices, water meters, gas meters, electrical meters, air-conditioning or similar HVAC equipment) must also be screened from offsite views (as described in Type C or Type D).





Example: Vegetative Screen around HVAC system

- (f) Type F Stormwater facilities are subject to the following conditions:
  - (i) No rip-rap, crushed stone, concrete or other impervious materials are exposed.
  - (ii) Trees and other living organic material can be planted along the stormwater facility as long as the plantings do not interfere with the intended use of the facility.
  - (iii) The use of a continuous visual screen consisting of a continuous hedge composed of a double staggered row of evergreen shrubs with a minimum planting height of thirty inches (30") and maximum center spacing of three feet (3'). (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-710. <u>Foundation planting</u>. (1) Building foundation landscaping is required on lots containing non-residential (excluding industrial) and high density residential development. shrubs shall be placed around the facades facing rights-of-way, a minimum of three feet (3') from the building.
- (2) Foundation plantings shall work in concert with transition yard plantings to frame important views, while visually softening long expanses of walls, particularly those lacking windows and other architectural details. Foundation plantings shall be compatible with the materials and the form of the proposed building(s).
- (3) The minimum width of the area provided to accommodate foundation plantings is as follows:
  - (a) A minimum of a three foot (3') planting area adjacent to building walls having an eave height of up to twenty feet (20').
  - (b) A minimum of a six foot (6') planting area adjacent to building walls having an eave height of twenty feet (20') or more.
- (4) Foundation plantings shall be installed across the entire length of facades facing rights-of-way, except where walkways and driveways are located.

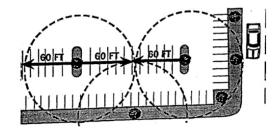


Example: Foundation Plantin

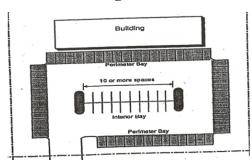


(as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)

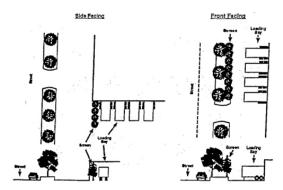
- 14-711. <u>Parking lot requirements</u>. The intent of this section is to break up the expanse of pavement, to provide shade, and to reduce glare from parked cars and loading docks.
  - (1) <u>Design criteria</u>. (a) Any part of a parking space can be no more than sixty feet (60') from a tree. Refer to diagram below:



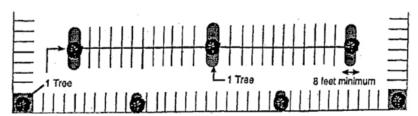
(b) Ends of all interior parking bays that contain a minimum of ten (10) contiguous parking spaces shall be bordered on both sides by a landscape island. Refer to diagram below:



(c) Ends of all perimeter parking bays shall be bordered by a landscaped peninsula. Refer to diagram below:



- (d) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way as shown below:
- (e) The screening material for loading docks and delivery stalls shall consist of the following:
- (f) One (1) row of evergreen shrubs spaced a maximum of five feet (5') on-center or a row of evergreen trees spaced a maximum of ten feet (10') on-center as specified in § 14-713 Plant installation specifications.
- (2) <u>Dimensions/planting criteria</u>.
- (a) Landscaped islands and peninsulas used to meet the landscape requirements:



- (b) Shall have a minimum width of eight feet (8') and a minimum landscaped area of two hundred (200) square feet;
- (c) Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one (1) tree.
- (d) The trees referred to in this parking section are Class 1 shade trees as specified in § 14-713 Plant installation specifications. In the special situations specified below, smaller ornamental shade trees may be substituted for Class 1 shade trees:
  - (i) An overhead obstacle such as a canopy or power lines limits the tree height:
  - (ii) The tree is located within twenty feet (20') of a building.

- (e) All landscaped islands and peninsulas shall be bordered by a curb or a wheel stop.
- (f) Groundcover. All interior parking lot landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover. A weed barrier shall be required.
  - (i) Living material. Living materials, such as grass, shall make up a minimum of sixty percent (60%) of the groundcover for the interior parking lot landscaping. One hundred percent (100%) of living materials is strongly encouraged.
  - (ii) Non-living material. Non-living materials, such as wood mulch, pine straw, or decorative rock (three fourths inch (3/4") or smaller gravel in a natural color tone) may make up forty percent (40%) of the groundcover for the interior parking lot landscaping. A weed barrier shall be required. Brick pavers or other pavement is not appropriate non-living groundcover.
- (3) <u>Vehicular display areas</u>. Applicants shall select one (1) of the following options for vehicular display areas:
  - (a) Compliance with standard. Comply with the interior parking lot landscaping requirements described in this section and the requirements in § 14-706 Landscaped street yard; or
  - (b) Increase street yard. In lieu of the interior parking lot landscaping requirements, increase the required street yard to fifteen feet (15') wide and install the number of trees required for the interior landscape requirements within the street yard.
- (4) Wheel stops. Except as provided below, all landscape areas at the front line of off-street parking spaces must be protected from encroachment of intrusion of vehicles through the use of wheel stops or curbs.
  - (a) Minimum height. Wheel stops shall have a minimum height of six inches (6") above the finished grade of the parking area.
  - (b) Anchoring. Wheel stops shall be properly anchored and shall be continuously maintained in good condition by the property owner.
  - (c) Location. Wheel stops shall not be placed in location of anticipated pedestrian traffic.
- (5) <u>Screened backfill</u>. Soil used in parking lot islands, driveway medians, and other areas internal to a vehicular use area shall be screened prior to deposition in planting areas. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-712. <u>Utility easements</u>. (1) <u>Intent</u>. To avoid damage to utility lines and landscape plantings, all trees and shrubs should be planted outside of existing and proposed utility easements.

- (2) <u>Policy</u>. Any tree or shrub used to meet the requirements of this section shall not be located within proposed or existing utility easements unless it meets one (1) of the special exceptions as defined below.
  - (3) <u>Special exceptions</u>. Special exceptions include the following:
  - (a) Written permission has been obtained from the holder of the utility easement.
  - (b) Where overhead power lines cross an area required by the ordinance to be planted with shade trees, smaller ornamental trees may be substituted.
  - (c) If none of the special exceptions above apply, the following options shall be considered in order of priority:
    - (i) Priority 1. Plant the tree as close to the easement as possible.
    - (ii) Priority 2. For highly visible areas (street yard, parking lots in front) plant the tree in the same general area where it can be seen from the street or parking lot. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-713. <u>Plant installation specifications</u>. (1) <u>Intent</u>. All landscaping materials shall be installed according to accepted planting procedures of the landscape industry. Planting methods and the season of planting will optimize chances for long-term plant survival.
  - Table 14-713A Plant Installation Specifications. (a) Class 1 shade trees. These trees are intended to be used to meet the tree planting requirements specified in § 14-706 Landscaped street yard, § 14-708 Landscape perimeter, § 14-711 Parking lot requirements, and § 14-715 Residential landscaping. All Class 1 shade trees shall be installed at a minimum caliper of two inches (2") as measured from two and one half feet (2 1/2') above grade level. Class 1 shade trees shall also have a minimum expected maturity height of at least thirty-five feet (35') and a minimum canopy spread of twenty feet (20'). Evergreen trees can be treated as Class 1 shade trees provided they meet the minimum maturity height and canopy spread criteria.
  - (b) Ornamental shade trees. These trees are intended to be used for planting under overhead utility lines only where they encroach into the property. All ornamental shade trees shall be installed at a minimum caliper of one and one-half inches (1 1/2") a measured at two and one-half feet (2 1/2') above grade level from the base of the tree. Ornamental shade trees shall have a maximum expected maturity height of twenty feet (20') and a minimum canopy spread of ten feet (10').
  - (c) Screening trees. These trees are intended to be used to meet the tree planting requirements of § 14-709 Screening. All screening trees

- shall be installed at a minimum height of eight feet (8') and have a minimum expected mature spread of eight feet (8').
- (d) Screening shrubs. These shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight feet (8') and a mature spread of at least five feet (5').
- (e) Foundation and landscape shrubs. These shrubs shall be installed at a minimum size of three (3) gallons.
- (f) Prohibited plants. These plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance or nuisance.

Table 14-713A							
Collegedale Plant Installation Specification (Common Name)							
Please see notes in Section 14-713							
Class 1	Ornamental	Screening	Screening	Foundation and	Prohibited		
Shade Trees	Shade Trees	Trees	Shrubs	Landscape Plants	Plants		
American Hophornbeam	Amur Maple	American Arborvitae	Burford Holly	Azalea	Air-potato		
American Hornbeam	Autumn Flowering Cherry	American Holly	Cherry Laurel	Barberry (all cultivars)	Amur Bush Honeysuckle		
Bald Cypress	Bloodgood Japanese Maple	Atlas Cedar	Eastern Arborvitae	Burford Holly	Asian Bittersweet		
Black Gum	Crapemyrtle	Canadian Hemlock	English Holly	Burning Bush	Autumn Olive		
Chinese Pistache	Flowering Dogwood	Carolina Hemlock	English Laurel	Cherry Laurel	Bradford Pear		
Dawn Redwood	Golden Raintree	Deodar Cedar	Leatherleaf Viburnum	Crape Mirtle	Bush Honeysuckle		
European Hornbeam	Hedge Maple	Eastern Red Cedar	Nellie R. Stevens Holly	Creeping Juniper	Chinese Privet		
Ginkgo (use male only)	Kousa Dogwood	Foster Holly	Wax Mirtle	Dwarf Burford Holly	Common Privet		
Japanese Pogodatree	Okame Cherry	Green Giant Arborvitae		English Holly	Common Reed		
Japanese Zelkova	Redbud	Leyland Cypress		Ever-Blooming Rose	English lvy		
Katsura Tree	Serviceberry	Sapphire Cypress		Forsythia	Eurasian Water Milfoil		
Littleleaf Linden	Sweetbay Magnolia	Shortleaf Pine		Foster Holly	Garlic Mustard		
Northern Red Oak	Thornless Cockspur Hawthorne	Southern Magnolia		Fragrant Olive	January Jasmine		
Overcup Oak	Trident Maple	-		Helleri Holly	Japanese Bamboo		
Princeton American Elm	Winter King Hawthorne			Inkberry Holly	Japanese Grass		
River Birch	Yoshino Cherry			Japanese Barberry	Japanese Honeysuckle		
Scarlet Oak	i de la companya de			Japanese Holly	Japanese Knotwood		
Seedless Honey Locust				Leatherleaf Viburnum	Japanese Spiraea		
Shumard Oak				Mop Cypress	Johnson Grass		
Southern Sugar Maple				Nandina (all cultivars)	Kudzu		
Sugar Maple				Otto Laurel	Mimosa		
Swamp White Oak				Pfitzer Juniper	Morrow's Bush Honeysuckle		
Sweetgum				Shore Juniper	Mulberry		
Water Oak				Skipp Laurel	Multiflora Rose		
White Oak				Youpan Holly	Princess Tree		
Willow Oak					Purple Loosestrife		
Yellowwood					Sericea Lespedeza		
					Siberian Elm		
					Silver Maple		
					Silver Poplar		
					Tartarian Honeysuckle		
					Thorny Olive		
					Tree of Heaven		
					Tropical Soda Apple		
					Winter Creeper		

(as added by Ord. #742, April 2010, and replaced by Ord. #983, Sept. 2013)

- 14-714. <u>Landscape installation requirements</u>. (1) <u>Location</u>. (a) Drainage. Trees shall not be placed where they interfere with sight triangles.
- (b) Overhead utilities. Trees shall not be placed where they require frequent pruning in order to avoid interference with overhead utility lines. In such locations, small ornamental trees are required to be placed where allowed by the utility company.
- (c) Buried utilities. Landscaping shall be installed at locations that avoid placement directly above buried utilities.

- (d) Fire hydrants. Landscaping shall not be placed within six feet (6') of a fire hydrant.
- (2) <u>Minimum size</u>. All plant material shall meet the requirements established by the American Association of Nurserymen publication "American Standard for Nursery Stock" (ANSI Z60.1 latest version). Immediately upon planting, trees shall meet the minimum requirements:
  - (a) Class 1 shade trees two and one-half (2 1/2") in caliper.
  - (b) Ornamental trees two inches (2") in caliper.
  - (c) Evergreen trees eight feet (8') in height.
  - (d) Shrubs twenty-four inches (24") in height and in a three (3) gallon pot, if not ball and wrapped in burlap.
  - (e) Species mix. When more than ten (10) trees are to be planted to meet the requirements of this ordinance, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is listed below. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.
    - (i) Number of required trees: 11 20 trees = two (2) species (but no more than seventy percent (70%) of each)
    - (ii) Number of required trees: 21 30 = three (3) species (but no more than forty percent (40%) of each)
    - (iii) Number of required trees: 31 40 = four (4) species (but no more than forty percent (40%) of each)
    - (iv) Number of required trees: 41+ = five (5) species (but no more than forty percent (40%) of each) (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept 2013)
- 14-715. <u>Tree preservation credits</u>. (1) <u>Healthy trees</u>. No tree preservation credits will be allowed for any dead tree, any tree in poor health or any tree subjected to grade alterations.
- (2) <u>Protection during construction</u>. Trees for which credit is given shall be protected during construction from:
  - (a) Mechanical injuries to root, trunk, and branches;
  - (b) Injuries by chemical poisoning;
  - (c) Injuries by excavation; and,
  - (d) Injuries by paving.
- (3) <u>Credit options</u>. If an applicant is preserving trees, the applicant may use the existing trees as credit either toward a reduction in parking requirements or in a reduction of the number of trees required, as described below and as approved by the City of Collegedale Planning Commission.

- (4) Reduction of parking requirements. To allow an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced as described below:
  - (a) Parking space reduction credits. (i) Total diameter of all preserved trees: 4 7.9 inches = one (1) parking space credited.
  - (ii) Total diameter of all preserved trees: 8 22.9 inches = two (2) parking spaces credited.
  - (iii) Total diameter of all preserved trees: 23 29.9 inches = three (3) parking spaces credited.
  - (iv) Total diameter of all preserved trees: 30+ inches = four (4) parking spaces credited
  - (b) Reduction of required trees. Preservation and protection of existing trees on the lot may be credited toward the tree planting requirements. Credit for preserved trees shall be permitted at the following rates:
    - (i) Diameter of preserved tree: 4 7.9 inches = one (1) shade tree.
    - (ii) Diameter of preserved trees: 8 22.9 inches = two (2) shade tree.
    - (iii) Diameter of preserved trees: 23 29.9 inches = three (3) shade tree.
    - (iv) Diameter of preserved trees: 30+ inches = four (4) parking shade tree. (as added by Ord. #577, June 2003, and replaced by Ord. #742, April 2010, and Ord. #983, Sept. 2013)
- 14-716. Stormwater credits. Reserved for future use. (as added by Ord. #742, April 2010, and replaced by Ord. #983, Sept. 2013)

# 14-717. Residential (R-1-H, R-1-L, R-2, and AG).



- (1) This section applies only to low-density residential development as specified below.
- (2) A minimum or two (2) Class 1 shade trees or four (4) ornamental trees as specified by § 14-713 Plant installation specifications (minimum size)

shall be planted in the front yard, or within ten feet (10') of front of residence in the side yard, for each new residential lot in the R-1-H, R-1-L, R-2, and AG Zone R-3 for the purposes of this ordinance is considered to be a "Commercial" (high density residential) development and must comply with the sections on Commercial (high density) developments. Trees existing in the front lawn can be credited towards the landscaping requirements as per § 14-716 Tree preservation credits. The tree or trees shall be planted prior to being issued a certificate of occupancy. Screening requirements in § 14-709 Screening are required to be installed prior to being issued a certificate of occupancy. (Screening requirements met with shrubbery cannot be used to offset shrubbery requirements within this section.) Shrubs will be required at a rate of seven (7) per one thousand (1,000) heated square feet of a residential dwelling and will comply with all standards and planting requirements within this ordinance, and will be installed prior to being issued a certificate of occupancy. Lawn grass is required in all front yards and areas of property visible from road frontage, and required to be at a height of three inches (3") prior to being issued a certificate of occupancy. Whether the lawn is seeded and straw on it or sod is used the height of the grass must be a minimum of three inches (3") in height.

For example, prior to being issued a certificate of occupancy for a two thousand four hundred (2,400) square foot house the following must be done to meet the requirements of this ordinance:

- (a) A minimum of sixteen (16) three (3) gallon shrubs must be planted;
- (b) The grass on the lawn must be at a minimum of three inches (3") in height;
- (c) Air conditioning equipment, electrical, gas, and water meters must be screened;
- (d) A minimum of two (2) Class 1 shade trees or four (4) ornamental trees must be planted.
- (3) <u>Exemptions</u>. A property owner, builder or developer may request exemption from these requirements if the following conditions are present:
  - (a) The lot is at least than two (2) acres in area, and;
  - (b) The residence is constructed more than three hundred feet (300') from any public right-of-way; and
  - (c) Natural tree cover is retained and maintained to an extent that screens the residence from public rights-of-way.
  - (d) Residences located on lots greater than ten (10) acres and located over five hundred feet (500') from public rights-of-way. (as added by Ord. #742, April 2010, and replaced by Ord. #983, Sept. 2013)
- 14-718. <u>Enforcement and maintenance</u>. (1) <u>Final occupancy permit</u>. If the landscaping has not been installed and inspected for proper installation prior to receiving the certificate of occupancy, a temporary certificate of occupancy may be granted provided the following conditions are met:

- (a) Property owner posts a performance bond with the city finance department;
- (b) The amount of the bond or letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a twenty-five percent (25%) contingency cost, as shown on the submitted landscape plan; and,
- (c) The cost of the landscaping shall be certified by a licensed landscape contractor.

After receiving the temporary certificate of occupancy, the remaining landscape material shall be installed within ninety (90) days from the date the certificate of occupancy is issued. The bond shall be called if the required landscaping has not been installed by the end of the ninety (90) day period and the funds will be applied to complete the landscaping work.

- (2) <u>Maintenance</u>. Landscape maintenance specifications are as follows:
- (a) The owner shall be responsible for the maintenance of all landscape areas not in the public right-of-way.
- (b) Unless otherwise specified by the city, owners shall be responsible for maintaining street trees planted adjacent to the site in conjunction with construction.
- (c) Homeowners associations are responsible for the maintenance of open lots, medians, street trees associated with the development.
- (d) Landscape areas shall be maintained in accordance with the approved landscape plan and shall present a healthy and orderly appearance free from refuse and debris.
- (e) All plants shown on an approved Landscape Plan used to meet a minimum requirement of this ordinance shall be replaced if they die, are seriously damaged, or a new timeline for a new landscape plan and new landscaping is installed.
- (3) <u>Damage due to natural occurrence</u>. (a) In the event that any vegetation or physical element functioning to meet the standards of this subsection is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild animals, the owner or developer will be required to replant if the landscape standards are no longer met.
- (b) The owner shall have one growing season to replace or replant.
- (4) <u>Protection during operations</u>. The owner or developer shall take actions to protect trees and landscape from unnecessary damages during all facility and site maintenance operations. Plants shall be maintained in a way that does not obstruct sight distances or roadway and drive intersections, obstruct traffic signs or devices, and/or interfere with the use of sidewalks or pedestrian trails.

(5) <u>Maintain shape</u>. All required trees shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Trees required by this chapter that have been severely pruned, sheared, topped, or shaped as shrubs that no longer meet their intended function shall be considered as damaged vegetation in need of replacement, and shall be replaced within one (1) growing season.



Example: Severe pruning or shaping interferes with the tree's intended purpose as a screening element, and may

(as added by Ord. #983, Sept. 2013)

14-720. Appeals. Any person aggrieved by the administration, interpretation, or enforcement of this section may appeal to the board of zoning appeals within sixty (60) days of the City of Collegedale's decision. Decisions of the board of zoning appeals may be appealed to a court of competent jurisdiction. Should any court of competent jurisdiction find any portion of this Section to be unlawful or unconstitutional, such finding shall not affect this Section as a whole or any portion of it not found invalid.

Unique factors relating to topography, soil and vegetation conditions, space limitations, or uses of neighboring property may make landscaping impossible, ineffective or unnecessary. Section 14-705 Hardships provides administrative remedies and guidelines where the strict application of the City of Collegedale Landscape Ordinance would create an undue hardship. If the administrative remedies and guidelines as described within § 14-705 Hardships do not relieve the undue hardship, requests for use of alternative landscaping schemes or variances are justified only when one or more of the following conditions apply:

(1) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible, impractical, or ineffective. If the request is a variance in the screening requirements, a letter shall be required from the owners of the abutting property to acquiesce with the variance or alternative landscaping scheme.

- (2) Due to a change of use of an existing site, the required screening requirements (§ 14-706 Landscaped street yard) are larger than can be provided as required by the provisions of this ordinance.
  - (3) The site involves space limitations or unusually shaped parcels.
- (4) When the strict application of this landscape ordinance would impact the safety of the general public. A variance application must be completed and a one hundred dollar (\$100.00) fee submitted to the City of Collegedale Codes and Inspection Department. (as added by Ord. #983, Sept. 2013)

## MULTI-MODAL TRANSPORTATION STANDARDS

## SECTION

14-801. Adoption of standards

14-802. Exceptions.

14-803. Typical sections.

14-804. Violation unlawful.

14-801. Adoption of standards. All new construction shall be completed in accordance with the attached details based upon the Tennessee Department of Transportation classification of each road unless specified otherwise in § 14-802 below. All development or redevelopment along an existing roadway shall be responsible for improving the existing roadway from the centerline toward the site in accordance with the standard specified in § 14-803 for the length of the property. These typical sections will be applied to all public right-of-ways within the City of Collegedale. (as added by Ord. #744, June 2010, as replaced by Ord. #1039, Aug. 2017)

14-802. <u>Exceptions</u>. Notwithstanding the standards specified in § 14-803 or otherwise in this chapter, the following streets shall be constructed to the collector standard:

- (1) Old Lee Hwy.
- (2) Standifer Gap.
- (3) University Drive.
- (4) Tucker Road.
- (5) Little Debbie Parkway will be initially constructed to the collector standard. Upon the recommendation of the city manager, the commission may consider a transition to the arterial standard in the medium term or as usage warrants. (as added by Ord. #1039, Aug. 2017)

14-803. <u>Typical sections</u>. The typical sections appearing in Appendix A to this ordinance will be applied to all public right-of-ways within the City of Collegedale. The drawings and words of Appendix A<sup>1</sup> are incorporated herein by reference as if fully set forth in this ordinance. (as added by Ord. #1039, Aug. 2017)

14-804. <u>Violation unlawful</u>. A violation of this ordinance is unlawful, and any person in violation of the same shall be subject to a fifty dollar (\$50.00) fine. Every day the violation exists shall be deemed a separate violation, for

<sup>&</sup>lt;sup>1</sup> Appendix A is of record in the office of the recorder.

which a fifty dollar (\$50.00) fine may be assessed. The city also reserves the right to take action a court of competent jurisdiction to enforce compliance this chapter, and may take any other action consistent with state law in order to enforce these provisions. (as added by Ord. #1039, Aug. 2017)

### TITLE 15

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

### **CHAPTER**

- 1. MISCELLANEOUS PROVISIONS.
- 2. SPEED LIMITS.
- 3. TURNING MOVEMENTS.
- 4. STOPPING AND YIELDING.
- 5. PARKING.
- 6. ENFORCEMENT.
- 7. INOPERATIVE MOTOR VEHICLES.

# CHAPTER 1

# MISCELLANEOUS PROVISIONS<sup>2</sup>

### **SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Authorized emergency vehicles defined.
- 15-103. Operation of authorized emergency vehicles.
- 15-104. Following emergency vehicles.
- 15-105. Running over fire hoses, etc.
- 15-106. Driving on streets closed for repairs, etc.
- 15-107. Careless driving.
- 15-108. Driving under the influence.
- 15-109. One-way streets.
- 15-110. Unlaned streets.
- 15-111. Laned streets.
- 15-112. Yellow lines

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

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

<sup>&</sup>lt;sup>1</sup>Municipal code reference

<sup>&</sup>lt;sup>2</sup>State law references

- 15-113. Miscellaneous traffic-control signs, etc.
- 15-114. General requirements for traffic-control signs, etc.
- 15-115. Unauthorized traffic-control signs, etc.
- 15-116. Presumption with respect to traffic-control signs, etc.
- 15-117. School safety patrols.
- 15-118. Driving through funerals or other processions.
- 15-119. Damaging pavements.
- 15-120. Clinging to vehicles in motion.
- 15-121. Riding on outside of vehicles.
- 15-122. Backing vehicles.
- 15-123. Projections from the rear of vehicles.
- 15-124. Causing unnecessary noise.
- 15-125. Vehicles and operators to be licensed.
- 15-126. Passing.
- 15-127. Bicycle riders, etc.
- 15-128. Registration of motor vehicles.
- 15-129. Use of driver's license in lieu of bond.
- 15-101. <u>Motor vehicle requirements</u>. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by chapter 9, title 59, of the <u>Tennessee Code Annotated</u>. (1977 Code, § 9-101)
- 15-102. <u>Authorized emergency vehicles defined</u>. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1977 Code, § 9-102)
- 15-103. 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

<sup>&</sup>lt;sup>1</sup>Municipal code reference

Operation of other vehicles upon the approach of emergency vehicles: section 15-401.

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 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. (1977 Code, § 9-103)
- 15-104. <u>Following emergency vehicles</u>. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1977 Code, § 9-104)
- 15-105. 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. (1977 Code, § 9-105)
- 15-106. <u>Driving on streets closed for repairs, etc.</u> Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1977 Code, § 9-106)
- 15-107. <u>Careless driving</u>. It shall be unlawful for any person to operate a motor vehicle upon the streets and highways of the City of Collegedale in a careless unattentive manner. For the purpose of this section careless and unattentive driving is defined to mean:
- (1) Failure to drive in a careful and prudent manner, having due regard for the width, grade, curves, corners, shoulders, traffic and all other attendant circumstances, so as to endanger life, limb, or property of any person, or
- (2) To operate a motor vehicle which has frost, fog or other foreign matter or debris upon its windshield or windows which obstruct the vision of the driver. (1977 Code, § 9-107)
- 15-108. <u>Driving under the influence</u>. No person shall drive or operate any automobile or other motor driven vehicle while under the influence of an

intoxicant, or while under the influence of narcotic drugs, or while under the influence of drugs producing stimulating effects on the central nervous system. (1977 Code, § 9-108)

- 15-109. 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. (1977 Code, § 9-109)
- 15-110. <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width a vehicle shall be driven upon the right half of the street except:
  - (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
  - (b) When the right half of a roadway is closed to traffic while under construction or repair.
  - (c) Upon a roadway designated and signposted by the city for one-way traffic.
- (2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1977 Code, § 9-110)
- 15-111. <u>Laned streets</u>. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1977 Code, § 9-111)

15-112. <u>Yellow lines</u>. 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. (1977 Code, § 9-112)

15-113. <u>Miscellaneous traffic-control signs</u>, etc.<sup>1</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1977 Code, § 9-113)

- 15-114. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>2</sup> published by the U.S. Bureau of Public Roads, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1977 Code, § 9-114)
- 15-115. <u>Unauthorized traffic-control signs, etc.</u> No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of 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. (1977 Code, § 9-115)
- 15-116. <u>Presumption with respect to traffic-control signs, etc.</u> When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper city authority. (1977 Code, § 9-116)
- 15-117. 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. (1977 Code, § 9-117)

Stop signs, yield signs, flashing signals, pedestrian control sign, traffic control signals generally: section 15-405--15-409.

<sup>&</sup>lt;sup>1</sup>Municipal code references

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

- 15-118. <u>Driving through funerals or other processions</u>. Except when otherwise directed by a police officer no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1977 Code, § 9-118)
- 15-119. <u>Damaging pavements</u>. No person shall operate upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1977 Code, § 9-119)
- 15-120. <u>Clinging to vehicles in motion</u>. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1977 Code, § 9-120)
- 15-121. 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. (1977 Code, § 9-121)
- 15-122. <u>Backing vehicles</u>. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1977 Code, § 9-122)
- 15-123. 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. (1977 Code, § 9-123)
- 15-124. <u>Causing unnecessary noise</u>. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1977 Code, § 9-124)
- 15-125. <u>Vehicles and operators to be licensed</u>. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor

Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1977 Code, § 9-125)

15-126. <u>Passing</u>. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

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. (1977 Code, § 9-126)

- 15-127. <u>Bicycle riders, etc.</u> (1) Every person riding a bicycle upon roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle.
- (2) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- (3) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (4) No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon the streets or roadways.
- (5) Every person operating a bicycle upon a roadway or street shall ride with the flow of traffic as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (6) Persons riding bicycles upon a roadway or street shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

- (7) Wherever a usable path for bicycles has been provided adjacent to a roadway or street bicycle riders shall use such path and shall not use the roadway.
- (8) Any person operating a bicycle shall keep at least one (1) hand upon the handlebars.
- (9) After sundown, every bicycle shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 500 feet to the rear; except that a red reflector meeting the requirements of this section may be used in lieu of the red light. All such lamps and reflectors shall be in place and in operation whenever a bicycle is operated after sundown.
- (10) No parent of any minor child and no guardian of any minor ward shall authorize or knowingly permit any such minor child or ward to violate any of the provisions of this section.
- (11) This section shall apply whenever a bicycle is operated upon any street, or upon any public path set aside for exclusive use of bicycles, subject to those exceptions stated herein. (1977 Code, § 9-127)
- 15-128. <u>Registration of motor vehicles</u>. (1) <u>Definitions</u>. For the purpose of this section, unless a different meaning clearly appears in context, the following definitions of terms shall be used in its interpretation:
  - (a) "Motor vehicle." Any device self-propelled by an internal combustion engine in, upon, or by which any person or property is transported or drawn upon the streets or other public ways of the city except the following: those belonging to governmental agencies; those belonging to nonresident tourists or visitors in the city for not more than thirty days; those belonging to and used by individuals who are not residents of Hamilton County, but not used for transportation to, or in the pursuit of, any occupation, vocation, business, trade or profession within the city; farm tractors and special mobile equipment.
  - (b) "Farm tractor." A vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements.
  - (c) "Motorcycle." A motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground.
  - (d) "Truck." A motor vehicle designed, used, or maintained primarily for the transportation of property.
  - (e) "Person." A natural person, firm or copartnership, association, or corporation.
  - (f) "Special mobile equipment." Any vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the streets or other public ways.

- (g) "Registration time." Time of registration shall be June 15th, delinquent August 1st, next or within five days after the purchase of a motor vehicle, or within thirty (30) days after a motor vehicle is brought into the city from another state or county, and shall not be for a period less than one year.
  - (h) "Nonresident." A person not a resident of the city.
- (i) "Owner." A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner.
- (2) <u>Registration required</u>. Every motor vehicle licensed by the State of Tennessee and owned or regularly operated by a resident person, or an association, firm or corporation with a place of business in the city, shall be registered with the city recorder. Each motor vehicle so registered shall be assigned an individual number in this book and the owner or operator issued a certification (decal) bearing the same number in form. Said decal shall be displayed in lower left corner of vehicle tag.
- (3) <u>Registration fee</u>. At the time of registration each owner or operator shall pay a fee for registering the motor vehicle owned by him or regularly driven by him. The fee to be as follows:

(a)	Motor scooters and motorbikes	\$ 2.00
(b)	Motorcycles, automobiles, pick-up	
	trucks and motor homes	5.00
(c)	Trucks, 1-5 tons, single axle	25.00
(d)	Trucks, over 5 tons, single axle	50.00
(e)	Trucks, tandem rear axle	100.00
(f)	Tractor	200.00

- (4) <u>Motor vehicle dealers</u>. Each licensed motor vehicle dealer shall register one vehicle which is being held for sale. Such registration shall entitle such dealer to drive any motor vehicle upon the streets of the city for demonstration purposes only.
- (5) <u>Trucks or buses used in interstate commerce</u>. There are excepted from this section trucks and buses used in interstate commerce not based in Collegedale.
- (6) Report required on transfers. All persons selling or transferring one or more motor vehicles within the corporate limits of the city shall report said sale or transfer to the city manager within thirty-six (36) hours after such sale or transfer, giving the make, type, motor number and license number of said vehicle, and the name of the person to whom the transfer was made. The registration fee for vehicles acquired more than six months after June 15th shall be one-half the regular fee.

- (7) <u>Purpose clause</u>. To be used in defraying the cost of administration of this section, the enforcement of its provisions, for the promotion of traffic safety and installation of signs, signals, markings and other safety devices and for regulating traffic on the streets of the city.
- (8) Penalty. It shall be unlawful for any person to operate a motor vehicle upon the streets of the city without having registered such vehicle and paying the registration fee. It shall be unlawful for any motor vehicle dealer or any person to sell or transfer a motor vehicle without notifying the city recorder of such transaction. Any violation of the provisions of this chapter shall constitute a misdemeanor and upon conviction the person violating the same shall be fined in accordance with the general penalty clause in this code of ordinances. (1977 Code, § 9-128, as modified by Ord. # 242, Oct. 1988, and Ord. # 272, May 1990, and Ord. # 289, March 1992)
- 15-129. <u>Use of driver's license in lieu of bond</u>. Whenever any person lawfully possessed of a chauffeur's or operator's license heretofore issued to him by the department of safety is issued a citation or is arrested and charged with a violation of any ordinance regulating traffic, except driving under the influence of intoxicant or narcotic drug or leaving the scene of an accident, said person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of other security required for his appearance in city court in answer to such charge before said court. The said officer or clerk with whom the said license is deposited shall issue to such person a receipt in accordance with <u>Tennessee Code Annotated</u>, section 55-50-802. (1977 Code, § 9-129)

## SPEED LIMITS

- 15-201. In general.
- 15-202. At intersections.
- 15-203. In school zones and near playgrounds.
- 15-204. In congested areas.
- 15-201. <u>In general</u>. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty-five (35) miles per hour except where official signs have been posted indicating other speed limits in which cases the posted speed limit shall apply. (1977 Code, § 9-201)
- 15-202. <u>At intersections</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1977 Code, § 9-202)
- 15-203. <u>In school zones and near playgrounds</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the city. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1977 Code, § 9-203)
- 15-204. <u>In congested areas</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1977 Code, § 9-204)

## TURNING MOVEMENTS

- 15-301. Generally.
- 15-302. Right turns.
- 15-303. Left turns on two-way roadways.
- 15-304. Left turns on other than two-way roadways.
- 15-305. U-turns.
- 15-301. 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. (1977 Code, § 9-301)
- 15-302. <u>Right turns</u>. 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. (1977 Code, § 9-302)
- 15-303. <u>Left turns on two-way roadways</u>. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1977 Code, § 9-303)
- 15-304. 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 land lawfully available to traffic moving in such direction upon the roadway being entered. (1977 Code, § 9-304)
  - 15-305. U-turns. U-turns are prohibited. (1977 Code, § 9-305)

<sup>&</sup>lt;sup>1</sup>State law reference

Tennessee Code Annotated, section 55-8-143.

# STOPPING AND YIELDING

- 15-401. Upon approach of authorized emergency vehicles.
- 15-402. When emerging from alleys, etc.
- 15-403. To prevent obstructing an intersection.
- 15-404. At railroad crossings.
- 15-405. At "stop" signs.
- 15-406. At "yield" signs.
- 15-407. At traffic-control signals generally.
- 15-408. At flashing traffic-control signals.
- 15-409. At pedestrian-control signals.
- 15-410. Stops to be signaled.
- 15-401. Upon approach of authorized emergency vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1977 Code, § 9-401)
- 15-402. 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. (1977 Code, § 9-402)
- 15-403. To prevent obstructing an intersection. No driver shall enter any intersection or marked cross walk unless there is sufficient space on the other side of such intersection or cross walk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or cross walk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1977 Code, § 9-403)
- 15-404. 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. (1977 Code, § 9-404)
- 15-405. At "stop" signs. The driver of a vehicle facing a "Stop" sign shall bring his vehicle to a complete stop immediately before entering the cross walk on the near side of the intersection or, if there is no cross walk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (1977 Code, § 9-405)
- 15-406. 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. (1977 Code, § 9-406)
- 15-407. 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 a 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 cross walk at the time such signal is exhibited.
- (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked cross walk.

# (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 before entering the cross walk and the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

- (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal,
- (4) 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 cross walk 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. (1977 Code, § 9-407)
- 15-408. <u>At flashing traffic-control signals</u>. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:
  - (a) <u>Flashing red (stop signal)</u>. When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest cross walk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
  - (b) <u>Flashing yellow (caution signal)</u>. When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
- (2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in section 15-404 of this title. (1977 Code, § 9-408)
- 15-409. <u>At pedestrian-control signals</u>. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:
- (1) <u>Walk</u>. 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) <u>Wait or Don't Walk</u>. 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. (1977 Code, § 9-409)

15-410. <u>Stops to be signaled</u>. No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law, except in an emergency. (1977 Code, § 9-410)

<sup>&</sup>lt;sup>1</sup>State law reference <u>Tennessee Code Annotated</u>, section 55-8-143.

## **PARKING**

- 15-501. Generally.
- 15-502. Angle parking.
- 15-503. Occupancy of more than one space.
- 15-504. Where prohibited.
- 15-505. Loading and unloading zones.
- 15-506. Presumption with respect to illegal parking.
- 15-501. Generally. (1) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the police officer, fire official, or other official responsible for enforcement of the municipal code finding such vehicle a citation may be issued for the driver and/or owner to answer for the violation during the hour and at a place specified in the citation. The offender may waive his right to a judicial hearing and have the charges disposed of out of court, provided that the penalty for the violation is paid by the assigned court date. The penalty for parking in a fire lane or public right-of-way, public or private property or in a handicapped parking space, as prohibited by § 15-504 of this code, shall be fifty dollars (\$50.00) and the penalty for other parking violations shall be twenty-five dollars (\$25.00). If not removed within twenty-four (24) hours of notification the vehicle will be removed by the city at the owners' expense. The parked vehicle shall be within eighteen inches (18") of the curbside.
- (2) The intent of this chapter is to provide for the safe and effective passage and access of traffic of any nature at all times, but particularly for postal, utility, municipal service, general service, delivery, and or emergency services vehicles of all types. The issuance of a citation or the removal of a vehicle shall be based upon these criteria. (1977 Code, § 9-501, as replaced by Ord. #707, July 2009)
- 15-502. Angle parking. On those streets which have been signed or marked by the city for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1977 Code, § 9-502, as replaced by Ord. #707, July 2009)
- 15-503. 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 (1) 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. (1977 Code, § 9-503, as replaced by Ord. #707, July 2009)

- 15-504. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:
- (1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;
  - (2) In front of a public or private driveway;
  - (3) Within an intersection;
  - (4) Within fifteen feet (15') of a fire hydrant;
  - (5) Within a pedestrian crosswalk;
  - (6) Within twenty feet (20') of a crosswalk at an intersection;
- (7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
  - (8) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;
- (10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street; no person shall park a vehicle on a street so as to leave less than eighteen feet (18') unobstructed width of the street for the free passage of other vehicles and a clear view of such vehicle shall be available from a distance of two hundred feet (200') in each direction;
- (12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:
  - (a) Physically handicapped; or
  - (b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under <u>Tennessee Code</u> Annotated, title 55, chapter 21.

(14) At no time shall watercraft, boats, motor homes, campers, recreational vehicles of any kind, trailers of any kind, or trucks over one (1) ton be parked in the street except to allow for the active loading or unloading of material or contents. At all times the minimum requirements of subsection (11) shall be complied with. (1977 Code, § 9-504, as replaced by Ord. #445, § 1, Feb. 1996, and Ord. #707, July 2009)

- 15-505. <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1977 Code, § 9-505, as replaced by Ord. #707, July 2009)
- 15-506. <u>Presumption with respect to illegal parking</u>. When any unoccupied vehicle is found parked in violation of any provision of this chapter there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1977 Code, § 9-506, as replaced by Ord. #707, July 2009)

## **ENFORCEMENT**

- 15-601. Issuance of traffic and parking citations.
- 15-602. Failure to obey citation.
- 15-603. Impoundment of vehicles.
- 15-604. Violation and penalty.
- 15-601. <u>Issuance of traffic and parking citations</u>. (1) When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of such 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 a civil offense for any alleged violator to give false or misleading information as to his name or address.
- (2) Parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (1977 Code, § 9-601, modified)
- 15-602. <u>Failure to obey citation</u>. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1977 Code, § 9-602)
- 15-603. <u>Impoundment of vehicles</u>. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for

impounding a vehicle shall be five dollars (\$5.00) and a storage cost of one dollar (\$1.00) per day shall also be charged. (1977 Code, § 9-604)

- 15-604. <u>Violation and penalty</u>. Any violation of this <u>title</u> shall be a civil offense punishable as follows: (1) <u>Traffic citations</u>. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.
  - (2) <u>Parking citations</u>. (a) <u>Parking meter</u>. If the offense is a parking meter violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of three dollars (\$3.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant for his arrest is issued, his fine shall be ten dollars (\$10.00).
  - (b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the city recorder a fine of ten dollars (\$10.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days but before a warrant is issued for his arrest, his civil penalty shall be twenty-five dollars (\$25.00).
  - (c) <u>Handicapped parking</u>. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars (\$100.00).

## INOPERATIVE MOTOR VEHICLES

- 15-701. Declaration of purpose.
- 15-702. Storage on private property restricted.
- 15-703. Removal required.
- 15-704. Notice to remove.
- 15-705. Refusal to remove.
- 15-706. Removal by city.
- 15-707. Entry to remove; removal by owner.
- 15-701. <u>Declaration of purpose</u>. In enacting this chapter, the council finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicles, on private property, which motor vehicles are in the nature of rubbish and unsightly debris, violates, in many instance detrimental to the healthy, safety, and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; invite plundering, create fire hazards and other safety and health hazards to minors as well as adults, interfere with the comfort and well being of the public and create, extend, and aggravate urban blight, and that the public health, safety, and general welfare require that such conditions be regulated, abated, and prohibited. (Ord. # 267-A, April 1990)
- 15-702. Storage on private property restricted. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of 30 days, when such vehicle is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the city unless the same is completely enclosed within a building or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (Ord. # 267-A, April 1990)
- 15-703. Removal required. The accumulation and storage of one or more such motor vehicle in violation of the provisions of this chapter shall constitute rubbish and debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the city. It shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage, or to have the motor vehicle housed within a building or behind a sight obscuring screen to the public. (Ord. # 267-A, April 1990)

- 15-704. Notice to remove. Whenever there is reasonable grounds to believe that a violation of the provisions of this chapter exists, the city manager shall give, or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this chapter, or shall give such notice to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or shall give such notice to both the registered owner and to the owner or person in lawful possession or control of such private property that said motor vehicle violates the provisions of this chapter, and demand that said motor vehicle be removed to a place of lawful storage within 30 days, or that within 30 days, the same be housed in a building where it will not be visible or behind sight obscuring screen to the public. Service of such notice shall be by mail duly posted, return receipt required. (Ord. # 267-A, April 1990)
- 15-705. Refusal to remove. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantles, or inoperative motor vehicle or house the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this chapter and any person found to be in violation of chapter shall be guilty of a misdemeanor and subject to a fine of not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00) upon conviction of said offense in the City of Collegedale Municipal Court. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. # 267-A, April 1990)
- 15-706. Removal by city. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of this chapter, the city manager may remove and dispose of such motor vehicle in the manner provided for by chapter 16 of title 55, Tennessee Code Annotated, particularly section 55-16-103, 55-16-104, and 55-16-106. he may therefore maintain an action in the name of the city, in the appropriate court, against any person or persons upon whom notice was served as required by this chapter to recover the costs of removing and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs. (Ord. # 267-A, April 1990)
- 15-707. Entry to remove; removal by owner. The city manager, code enforcement officer, chief of police, any regularly employed and salaried officer of the police department of the city, contracting agents, and authorized officers,

employees, and agents of the City of Collegedale and each of them, are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provision of this chapter. Any person to whom notice was given pursuant to this chapter shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the city manager, codes enforcement officer or his authorized representatives for the purpose of removal. (Ord. # 267-A, April 1990)

## **TITLE 16**

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

## **CHAPTER**

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS.
- 3. ISSUANCE OF LICENSES, PERMITS AND/OR AUTHORIZATIONS.

## CHAPTER 1

# **MISCELLANEOUS**

## **SECTION**

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Street numbering.
- 16-115. Skateboards prohibited.
- 16-101. <u>Obstructing streets, alleys, or sidewalks prohibited</u>. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1977 Code, § 12-201)
- 16-102. <u>Trees projecting over streets, etc., regulated</u>. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1977 Code, § 12-202)

Related motor vehicle and traffic regulations: title 15.

<sup>&</sup>lt;sup>1</sup>Municipal code reference

- 16-103. <u>Trees, etc., obstructing view at intersections prohibited</u>. It shall be unlawful for any property owner or occupant to have or maintain on 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. (1977 Code, § 12-203)
- 16-104. <u>Projecting signs and awnings</u>, 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. (1977 Code, § 12-204)
- 16-105. <u>Banners and signs across streets and alleys restricted</u>. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the city manager after a finding that no hazard will be created by such banner or sign. (1977 Code, § 12-205)
- 16-106. <u>Gates or doors opening over streets</u>, alleys, or sidewalks <u>prohibited</u>. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1977 Code, § 12-206)
- 16-107. <u>Littering streets</u>, 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. (1977 Code, § 12-207)
- 16-108. <u>Obstruction of drainage ditches</u>. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1977 Code, § 12-208)
- 16-109. <u>Abutting occupants to keep sidewalks clean, etc.</u> The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1977 Code, § 12-209)
- 16-110. <u>Parades regulated</u>. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first

Building code: title 12, chapter 1.

 $<sup>^1</sup>$ Municipal code reference

securing a permit from the city manager. No permit shall be issued by the manager 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 immediately clean up the resulting litter. (1977 Code, § 12-210)

- 16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law; nor shall he make such crossing at a speed in excess of twenty-five (25) miles per hour. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1977 Code, § 12-211)
- 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. (1977 Code, § 12-212)
- 16-113. <u>Fires in streets, etc.</u> It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1977 Code, § 12-213)
  - 16-114. Street numbering. (1) (a) It shall be the duty of the owners, occupants or lessee of all dwellings, apartment houses, hotels, commercial establishments, and other buildings to number such buildings with numerals not less than three and one-half inches in height, or of such contrasting color and so located as to be readily visible from the street in daylight or when a light is shined upon it at night.
  - (b) The building department of the city shall on all building permits for new residences, building structures or places of business, excepting sheds and accessory buildings provide an address number as assigned by the Hamilton County Planning Commission. On building permits other than new construction the building department shall insure that the address listed thereon is correct as assigned by the Hamilton County Planning Commission.
  - (c) If the owner, occupant or lessee of any building shall fail, refuse, or neglect to post the number as required or replace it when necessary the City of Collegedale shall cause a written notice to be served on such person directing that the number be properly posted or replaced.

Any such person not complying with said notice within ten days after receipt thereof shall be deemed to be in violation of this chapter.

- (d) Any person found guilty of violating any of the provisions of this section shall, upon conviction thereof, be fined in a sum not to exceed fifty dollars.
- (2) The owners, occupants or lessees shall number said dwellings, apartment houses, hotels, commercial establishments, and other buildings in accordance with the provisions of this chapter within sixty (60) days after passage and publication.
- (3) Sixty days after the passage of this chapter all incorrect house numbers shall be removed and the correct number substituted; and it shall be the duty of the building official to notify the owners or occupants who fail to comply with the provisions of this chapter, and if not corrected within two weeks from such notification the parties shall be deemed to be in violation of this chapter. (Ord. # 274, June 1990)
- 16-115. <u>Skateboards prohibited</u>. It shall be unlawful for any person to ride or operate a skateboard upon any public street. (Ord. # 220, Oct. 1987)

## CHAPTER 2

# EXCAVATIONS<sup>1</sup>

## SECTION

16-201. Permit required.

16-202. Applications.

16-203. Fee.

16-204. Deposit or bond.

16-205. Safety restrictions on excavations.

16-206. Restoration of streets, etc.

16-207. Insurance.

16-208. Time limits.

16-209. Supervision.

16-210. Curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (1977 Code, § 12-101)

16-202. <u>Applications</u>. Applications for such permits shall be made to the city recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

<sup>&</sup>lt;sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of <u>City of Paris</u>, <u>Tennessee v. Paris-Henry County Public Utility District</u>, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the city manager within twenty-four (24) hours of its filing. (1977 Code, § 12-102)

16-203. <u>Fee.</u> The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1977 Code, § 12-103)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city manager a surety bond in such form and amount as the city recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1977 Code, § 12-104)

16-205. <u>Safety restrictions on excavations</u>. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1977 Code, § 12-105)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the city recorder shall give notice to the person, firm, corporation, association, or others

that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1977 Code, § 12-106)

16-207. <u>Insurance</u>. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$130,000 for each person and \$350,000 for each accident, and for property damages not less than \$50,000 for any one (1) accident, and a \$75,000 aggregate. (1977 Code, § 12-107)

16-208. <u>Time limits</u>. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city recorder. (1977 Code, § 12-108)

16-209. <u>Supervision</u>. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1977 Code, § 12-109)

16-210. <u>Curb cuts</u>. No one shall cut, build, or maintain a driveway across a curb or sidewalk, public street, alley, or other public place without first obtaining a permit from the manager. 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. (1977 Code, § 12-110)

## CHAPTER 3

#### ISSUANCE OF LICENSES, PERMITS AND/OR AUTHORIZATIONS

## SECTION

- 16-301. Rights-of-way excavation permit.
- 16-302. Application.
- 16-303. Right(s)-of-way excavation permit fees.
- 16-304. Requirement of surety bond or cash deposit.
- 16-305. Manner of excavating protection of traffic and pedestrians.
- 16-306. Removal and protection of utilities.
- 16-307. Protection of adjoining property.
- 16-308. Excavated material.
- 16-309. Clean-up.
- 16-310. Restoration of surface.
- 16-311. Prompt completion of work.
- 16-312. Emergency action.
- 16-313. Inspections.
- 16-314. Liability of city.
- 16-315. Insurance.
- 16-316. Penalty.
- 16-317. Applicability to public utilities.
- 16-301. Rights-of-way excavation permit. (1) It shall be unlawful for any person to dig, break, excavate, tunnel, undermine, or in any manner damage any area located within the limits of the City of Collegedale's right-of-way, including but not limited to pavement, storm drainage way, shoulder, curb, sidewalk, traffic control device, public utility easement bridge, access ramp, that portion of any private driveway in the street right(s)-of-way, or other parts of a city right(s)-of-way (all hereinafter referred to as "city rights-of-way" in this chapter), or to make or cause to be made any excavation in or under the surface of any city right(s)-of-way for any purpose or to place, deposit, or leave upon any city right(s)-of-way any earth or excavation material obstructing or tending to interfere with the use of same, unless such person shall first have obtained a right(s)-of-way excavation permit therefor from the city engineer, or designee, as herein provided.
- (2) Notwithstanding subsection (1) above, construction of utility service lines from the main utility line to serve a utility customer shall not require an excavation permit unless a sidewalk, curb or the paved portion of a street is disturbed.
- (3) Notwithstanding subsection (2) above, all excavation work done within the city right(s)-of-way must meet the requirements set forth by this in this ordinance, and the requirements set forth in the right-of-way permit. If a utility or contractor fails to meet the requirements set forth and do not correct

the deficiencies expeditiously, the utility or contractor will be in violation of this ordinance and subject to the penalty set forth herein. (as added by Ord. #1028, April 2017)

16-302. <u>Application</u>. No right(s)-of-way excavation permit shall be issued unless a written application is submitted to the city. The application shall be accompanied by plans or drawings as deemed necessary by the city. The city engineer shall have the authority to waive the filing of detailed plans and drawings if the excavation project is of such a small scale that the city engineer determines that such drawings or plans are not necessary. (as added by Ord. #1028, April 2017)

16-303. Right(s)-of-way excavation permit fees. A permit fee shall be paid by the applicant to the city for the issuance of a right(s)-of-way excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The right(s)-of-way excavation permits shall be fifty dollars (\$50.00) each. If work begins without first obtaining a permit, the permit fee shall be doubled. (as added by Ord. #1028, April 2017)

16-304. Requirement of surety bond or cash deposit. (1) Before a right(s)-of-way excavation permit is issued, the applicant shall deposit with the city a surety bond, letter of credit, or surety agreement in a form payable to the city. Surety bonds and letters of credit shall be submitted to the city pursuant to subsection (7) herein. The limit of the surety agreement shall be determined by the engineering and public works departments. The required surety bond or letter of credit must be issued by an insurance company or bank licensed and authorized to transact business in the State of Tennessee and shall be conditioned upon the permittee's compliance with this ordinance and the right(s)-of-way excavation agreement, and shall secure and hold the city and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the right(s)-of-way excavation permit by reason of any accident or injury to persons or property, trespass, or inverse condemnation through the fault of the permittee, or subcontractor(s), and further conditioned to require permittee to refill, restore and replace in good and safe condition as near as may be to its original condition and conformity with approved plans, to the satisfaction of the city engineer and director of public works; to restore all openings and excavations made in city right(s)-of-way, and to maintain the city right(s)-of-way where excavation is made in good condition for the period of twelve (12) months after said work shall have been approved in writing by the city, ordinary wear and tear excepted. The twelve (12) month period for maintenance will renew and start over with any repair of any portion of the excavation site. Any settlement of the surface within the one (1) year period shall be deemed conclusive evidence of defective back-filling by the permittee. The city may rely upon the information furnished

by the permittee and it shall be no defense to a claim by the city against permittee or surety that the city made an error in issuing the right(s)-of-way excavation permit.

- (2) Recovery on a right(s)-of-way bond, letter of credit, or surety agreement for any claim shall not extinguish same, but it shall in its entirety be available for all subsequent claims during the excavation for which it was given, plus maintenance of the excavation for which it was given, plus maintenance of the excavation site as required by this chapter and the right(s)-of-way excavation agreement. In the event of any suit or claim against the city by reason of the negligence or default of the permittee, upon the city giving written notice to permittee and surety of such suit or claim, the permittee and surety shall hold the city harmless and indemnify the city for all expenses, including reasonable attorney's fees and costs.
- (3) Any annual bond, letter of credit, or surety agreement given under this provision shall remain in force for one (1) year plus the one (1) year maintenance period, conditioned as above, in the amount specified in subsection (7) herein, which is based on the permittee's anticipated work for one (1) year and shall be applicable to all excavation in any city right(s)-of-way
- (4) In lieu of a corporate surety bond, letter of credit, or surety agreement required above, the application may be accompanied with a cash deposit or cashier's check, made payable to the City of Collegedale for deposit. The amount shall be determined by the city engineer and director of public works.
- (5) Any special or general deposit made hereunder shall serve as security for the repair and performance of work necessary to put the city right(s)-of-way in as good a condition as it was prior to the excavation and in conformity with approved plans. If the permittee fails to make the necessary repairs or complete excavation within the time specified in the permit, the city may proceed to complete same and charge the expense to the permittee and surety as provided in subsection (6) below.
- (6) The city may use any or all of any deposit, letter of credit, or bond to pay the cost of any work the city performs to restore or maintain the city right(s)-of-way in the event the permittee fails to perform such work as provided in the right(s)-of-way excavation agreement or this chapter. If the permittee exposes the public to danger and fails to promptly correct same after notice (should the permittee not be readily available, the notice requirement is waived), the city may take steps deemed necessary in the sole discretion of the city to correct a dangerous situation which is a threat to public safety and charge same to permittee and surety. Once an excavation is started, it must be completed expeditiously. In the event an excavation is not pursued expeditiously after started, or is not completed within the time specified in the permit or any extension, or is abandoned, or the area is not properly restored or maintained, the city may give the permittee seven days' notice of the deficiency. If corrective action is not initiated within said seven days or any extension thereof granted

by the city engineer and director of public works, the city may perform the necessary work and charge same to permittee and surety. Prior notice to the surety is waived. Any permittee or surety aggrieved by any action of the city under this article is entitled to a due process hearing before the city manager upon written notice filed with the city recorder within ten (10) days of the event giving rise to the complaint. When the city uses its own employees to repair a street, shoulder, sidewalk, storm drainage ditch, or public utility that should have been repaired by a permit holder, the permit holder must reimburse the city at the rate of one hundred fifty percent (150%) of actual costs of the city. "Actual costs" are defined as employees' actual wages and benefits, with benefits calculated at thirty percent (30%) of wages; rental value of equipment, signs and barricades in accordance with a uniform schedule; cost of all materials; and, any outside costs.

(7) The bond will be based on a reasonable estimate as determined by the city engineer and director of public works. (as added by Ord. #1028, April 2017)

16-305. Manner of excavating-protection of traffic and pedestrians. Any person making any excavation or tunnel in a city right(s)-of-way shall do so according to the terms and conditions of this article, the application, right(s)-of-way excavation agreement, applicable government regulations and codes, and the right(s)-of-way excavation permit. Barricades, signage, and lights shall be maintained in accordance with the Manual of Uniform Traffic Control Devices to protect persons and property from injury because of the excavation. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed to provide for safe travel for pedestrians. The permittee shall construct and maintain adequate and safe crossings over excavations and highways to accommodate vehicular and pedestrian traffic. Vehicular and pedestrian crossings shall be constructed and maintained in accordance with applicable policies, rules, regulations, and ordinances of the city and other applicable government agencies. (as added by Ord. #1028, April 2017)

16-306. Removal and protection of utilities. The permittee shall not interfere with any existing utility without the written consent of the city engineer and the owner of the utility. If it becomes necessary to remove an existing utility, such removal or relocation shall be performed by the owner of such utility at the expense of the permittee. The permittee shall support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work and do everything necessary to support, sustain and protect them. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, the permittee must give prompt notice to the utility owning same. The repairs, shall be by the utility owner at the expense of the permittee or surety. The permittee shall be responsible for any damage to any public or private property. The permittee shall inform itself as to the

existence and location of all-utilities before excavation and protect same against damage. The bond, letter of credit, or surety deposit shall be available to pay any expense associated with utility damage or damage to the property of another. (as added by Ord. #1028, April 2017)

16-307. Protection of adjoining property. The permittee shall at all times at the permittee's expense preserve and protect from injury adjoining property by providing proper lateral support, and other measures suitable for the purpose. Where it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain permission for such entry from the owner of such private property. All construction and maintenance work shall be performed in a manner calculated to leave the lawn, storm drainage ditch, and other areas clean of earth and debris, and in a condition as nearly as possible to that which existed before such work began and approved by the city engineer and director of public works. (as added by Ord. #1028, April 2017)

16-308. Excavated material. All material excavated from trenches and stored adjacent to the trench or in any city right(s)-of-way shall be stored and maintained in such a manner as not to endanger those working in the trench, pedestrians or motorist, and so that as little inconvenience as reasonably possible is caused to those using streets, sidewalks, and adjoining property. The material shall not be stored in a drainage way. Where the confines of the area being excavated are too narrow to permit storing excavated material beside the trench, the city engineer shall have the authority to require the permittee to haul the excavated material to a storage site. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all storage and disposal sites. (as added by Ord. #1028, April 2017)

16-309. Clean-up. As the excavation work progresses, all city right(s)-of-way and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from excavation. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city engineer and director of public works. From time to time as may be ordered by the city engineer or director of public works, and in any event immediately after completion of said work, the permittee shall, at the permittee's expense, clean-up and remove all refuse and unused material of any kind resulting from said work. Notice to the surety is waived. Upon failure to do so within five (5) days after notification to permittee, said work may be performed by the city and the cost thereof charged to the permittee, and surety. The five (5) days' notice may be reduced when circumstances reasonably dictate less time, in the sole discretion of the city engineer, or designee. (as added by Ord. #1028, April 2017)

- 16-310. Restoration of surface. The permittee shall restore the surface of any city right(s)-of-way damaged as a result of the excavation work to its original or better condition and in accordance with the specifications from plans approved by the city engineer or director of public works. Noncompliance may jeopardize the permittee's future application for a permit and/or alter the requirements of future permits. (as added by Ord. #1028, April 2017)
- 16-311. Prompt completion of work. The permittee shall prosecute with diligence and expedition all excavation work covered by the right(s)-of-way excavation permit and shall promptly complete such work after initiation. Permittee shall promptly restore the city right(s)-of-way and, in any event, not later than the date specified in the right(s)-of-way excavation permit. (as added by Ord. #1028, April 2017)
- 16-312. Emergency action. In the event of any emergency in which a sewer, water main, electric conduit, gas line or other utility is damaged or breaks and causes imminent danger to the property, life, health, or safety of any individual, the person owning or controlling the damaged utility shall immediately take proper emergency measures to cure or remedy the dangerous condition without applying for and obtaining a right(s)-of-way excavation permit hereunder. However, such utility shall apply for a right(s)-of-way excavation permit not later than the end of the next succeeding business day during which the city is open for business and shall not proceed with permanent repairs without first obtaining a right(s)-of-way excavation permit hereunder. (as added by Ord. #1028, April 2017)
- 16-312. <u>Inspections</u>. The city engineer or director of public works shall make such inspections as are reasonably necessary for enforcement of this article. The city shall have the authority to promulgate and cause to be in force such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter. The city engineer, public works director or designee shall have the authority to enforce the rules a regulations set forth in this ordinance, and the requirements set forth in the in the right-of-way permit. After a second failed inspection, a fifty dollar (\$50.00) re-inspect fee will be assessed. This fee must be paid prior to any re-inspections performed. (as added by Ord. #1028, April 2017)
- 16-313. <u>Liability of city</u>. This article shall not be construed as imposing upon the city, city officials, or employees any liability for damages to any person injured by the performance of any excavation work for which a right(s)-of-way excavation permit is issued hereunder; nor shall the city, city officials, or employees be deemed to have assumed any such liability, or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. (as added by Ord. #1028, April 2017)

- 16-314. Insurance. In addition to all other requirements, each person applying for a right(s)-of-way excavation permit shall file a certificate of insurance indicating that the applicant is insured against claims for damages for personal injury and property damage which may arise from or out of the performance of the work, whether such performance by the applicant, subcontractor, or anyone directly or indirectly employed by the applicant. Such insurance shall cover collapse, explosive hazards, and work in a public street right(s)-of-way, and shall include protection against liability arising from completed operations. The insurance limits shall be prescribed by the city in accordance with the nature of the risk; provided, however, the liability insurance limits for bodily injury shall not be in an amount less than five hundred thousand dollars (\$500,000.00) for each person and five hundred thousand dollars (\$500,000.00) for each accident and for property damages an amount not less than one hundred thousand dollars (\$100,000.00). Notwithstanding the foregoing, a governmental agency or municipal corporation that is self-insured is exempt from this provision. (as added by Ord. #1028, April 2017)
- 16-315. <u>Penalty</u>. Any person, firm, corporation, public or private utility violating any provision of this chapter shall, upon a finding of a violation, be subjected to an administrative hearing penalty of up to five hundred dollars (\$500.00) for each offense; and a separate offense shall be deemed committed each day during which a violation occurs or continues. (as added by Ord. #1028, April 2017)
- 16-316. <u>Applicability to public utilities</u>. Eastside Utility District, Hamilton County Water and Wastewater Treatment Authority, the Electric Power Board are required to make application for permits under this chapter, but payment of permit fees and posting of bonds or cash deposits are hereby waived. (as added by Ord. #1028, April 2017)

## **TITLE 17**

# REFUSE AND TRASH DISPOSAL

# CHAPTER 1. REFUSE.

#### CHAPTER 1

# **REFUSE**

#### SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Placement of brush and/or refuse.
- 17-110. Violations and penalty.
- 17-101. <u>Refuse defined</u>. 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. (1977 Code, § 8-101)
- 17-102. <u>Premises to be kept clean</u>. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1977 Code, § 8-102)
- 17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse

container until such refuse has been drained of all free liquids. (1977 Code, § 8-103)

- 17-104. Location of containers. Where alleys are used by the city refuse collectors, containers shall be placed on or within six (6) feet of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the public sidewalk, or ditch or street line if there is no curb, no earlier than after sundown, the night before the calendar day scheduled for the collection of refuse therefrom. By the end of the calendar day of collection, after such containers have been emptied, the containers shall be moved by the owner or occupant of the premises to a place on the premises behind the front building line. (1977 Code, § 8-104, as replaced by Ord. #317, § 1, Nov. 1994)
- 17-105. <u>Disturbing containers</u>. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1977 Code, § 8-105)
- 17-106. <u>Collection</u>. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of commissioners shall designate. Collections shall be made regularly in accordance with an announced schedule. (1977 Code, § 8-106)
- 17-107. <u>Collection vehicles</u>. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1977 Code, § 8-107)
- 17-108. <u>Disposal</u>. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of commissioners is expressly prohibited. (1977 Code, § 8-108)
- 17-109. <u>Placement of brush and/or refuse</u>. Brush and/or refuse, not suitable for collection from cans or similar containers, shall not be placed out for collection earlier than the weekend immediately prior to the scheduled date of collection thereof at a location consistent with section 17-104. (as added by Ord. #317, § 2, Nov. 1994)

17-110. <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty of up to one hundred dollars (\$100.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #317, § 3, Nov. 1994)

## TITLE 18

# WATER AND SEWERS<sup>1</sup>

## CHAPTER

- 1. WATER AND SEWERS.
- 2. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
- 3. WASTEWATER USER CHARGES, ETC.
- 4. SEWER EXTENSION POLICY.
- 5. WASTEWATER COLLECTION SYSTEM AND TREATMENT WORKS REGULATIONS.
- 6. STORMWATER POLLUTION CONTROL.

## CHAPTER 1

# WATER AND SEWERS

#### SECTION

- 18-101. To be furnished under franchise.
- 18-102. Disposal prohibited except in water closets.
- 18-103. Where water closet required.
- 18-104. Liability of property owner.
- 18-105. Connection with septic tank required.
- 18-106. Connection with city sanitary sewer required.
- 18-101. <u>To be furnished under franchise</u>. Water service shall be furnished for the city and its inhabitants under such franchise as the board of commissioners shall grant. (1977 Code, § 13-101)
- 18-102. <u>Disposal prohibited except in water closets</u>. It shall be unlawful for any person to dispose of any human excreta in the city except in a sanitary water closet. (as added by Ord. #493, § 1, Nov. 1997)
- 18-103. Where water closet required. Every residence and building in the city in which human beings reside, are employed, or congregated shall have, for the disposal of human excreta, a sanitary water closet. (as added by Ord. #493, § 1, Nov. 1997)
- 18-104. <u>Liability of property owner</u>. It shall be unlawful for any person owning, leasing or renting property in the city to permit the disposal of human excreta on any property owned, leased or rented by such person or his agent, except in a sanitary water closet. (as added by Ord. #493, § 1, Nov. 1997)

Building, utility and housing codes: title 12.

<sup>&</sup>lt;sup>1</sup>Municipal references

18-105. <u>Connection with septic tank required</u>. Any building in the city which toilet facilities are required, which is not located within an area required for connection with a sewer, as provided in section 18-1<sup>1</sup> of this code, shall have such toilet facilities connected with a septic tank. (as added by Ord. #493, § 1, Nov. 1997)

18-106. <u>Connection with city sanitary sewer required</u>. (1) <u>Sewer connection required</u>. Every building having plumbing fixtures installed and intended for human habitation, occupance, or use on premises abutting a street, alley, or easement in which there is a sanitary sewer for single family lots existing as of the effective date of this section<sup>2</sup> and five hundred (500) feet for all others, shall be considered as being served by the city's sanitary sewer system.

All new buildings hereafter constructed which may be served by the city's sewer system shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the city's sewer system shall cease to use any other method for the disposal of sewage except as approved for direct discharge by the Tennessee Department of Health and Environment. Should a septic tank system fail to function properly, repairs shall be prohibited and connection to the sanitary sewer system shall be required. Septic tanks shall not be used where sewers are available. The public works director shall make any decision as to the location and or availability of sewers. Notwithstanding the above exceptions, all premises served by the city's sanitary sewer shall be subject to sewer user charges as adopted from time to time by the City of Collegedale.

- (2) <u>Sewer connection required</u>. The discharge of sewage into places other than the city's sewer system is declared a nuisance, except for discharge into a properly functioning septic tank system approved by the Chattanooga-Hamilton County Health Department or discharges permitted by a National Discharge Elimination System Permit issued by the State of Tennessee Department of Health and Environment (NPDES).
- (3) <u>Unconnected sewer service lines declared a nuisance</u>. Except for discharge to a properly functioning septic tank system approved by the Chattanooga-Hamilton County Health Department or discharges permitted by a National Discharge Elimination System permit (hereinafter "NPDES") issued by the State of Tennessee Department of Health and Environment, the

<sup>&</sup>lt;sup>1</sup>Ord. No. 493, § 1 (November 1997) from which these provisions were taken, reads "section 18-1 of this code." However there is no municipal code section 18-1.

<sup>&</sup>lt;sup>2</sup>These provisions were taken from Ord. No. 493 which passed second and final reading November 17, 1997.

discharge of sewage into places other than the city's sewer system is declared a nuisance. If the owner of any property which requires a sewer connection fails or refuses to connect to the city's system, the building inspector may take such action to abate the nuisance as may be warranted under the circumstances.

(4) Every building located on a lot having sewer service available as defined in paragraph (1) shall pay sewer availability fee equal to the water used as determined by the water meter volume times the sewer rate applicable for the building, whether or not there is an actual connection made to the sewer. (as added by Ord. #493, Nov. 1997, and amended by Ord. #535, June 2000)

## CHAPTER 2

# CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

## SECTION

18-201. Definitions.

18-202. Regulated.

18-203. Statement required.

18-204. Violations.

18-201. <u>Definitions</u>. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

- (1) "Public water supply." The water works 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) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.
- (5) "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 importing 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 county. (1977 Code, § 8-301)
- 18-202. <u>Regulated</u>. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass, or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and,

Municipal code reference

Plumbing code: title 12.

<sup>&</sup>lt;sup>1</sup>The regulations in this chapter are recommended by the Tennessee Department of Public Health for adoption by cities.

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. (1977 Code, § 8-302)

18-203. <u>Statement required</u>. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water works, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, 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. (1977 Code, § 8-303)

18-204. <u>Violations</u>. 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, auxiliary intake, by-pass, or interconnection has been discontinued. (1977 Code, § 8-304)

## CHAPTER 3

# WASTEWATER USER CHARGES, ETC.

## SECTION

- 18-301. Definitions.
- 18-302. Costs to be defrayed by charges.
- 18-303. How cost is assessed.
- 18-304. Customers to be billed monthly; penalty for delinquency; discontinuance of service.
- 18-305. Distribution of funds collected.
- 18-306. Periodic review and revision of charges.
- 18-307. Fees for industrial contributors of "process wastes."
- 18-308. Collection of certain charges for Chattanooga.
- 18-309. Computation and amortization of industrial cost recovery amounts.
- 18-310. Distribution of first 50% of industrial charges collected.
- 18-311. Distribution of remaining 50%.
- 18-312. Expenditure of funds for expansion or reconstruction, etc.
- 18-313. Investment of funds pending use.
- 18-314. Definition of "industrial user or development."
- 18-315. Computation of industrial recovery charges.
- 18-316. Metering facilities and sampling devices.
- 18-317. Annual assessments against industries.
- 18-301. <u>Definitions</u>. Unless specifically indicated otherwise, the meaning of the-terms used in this ordinance shall be as follows:
- (1) "BOD" (Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°, expressed in milligrams per liter (mg/1).
- (2) "SS" (Suspended Solids) shall mean solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.
- (3) "COD" (Chemical Oxygen Demand) shall mean the chemical oxygen demand exerted by the organics in the wastewater as measured utilizing standard laboratory procedures.
- (4) "Normal Domestic Wastewater" shall mean wastewater that has a BOD concentration of not more than 300 mg/l, a suspended solids concentration of not more than 400 mg/l, and a COD concentration of not more than 600 mg/l.
- (5) "Operation and maintenance" shall mean all expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to

achieve the capacity and performance for which such works were designed and constructed.

- (6) "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (7) "Single family residential customer" shall mean any contributor to the city's wastewater system from a facility that houses a single family and is used for domestic dwelling purposes only.
- (8) "Wastewater system" shall mean any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances. (1977 Code, § 13-501)
- 18-302. <u>Costs to be defrayed by charges</u>. (1) The charges promulgated by this ordinance shall defray, in their entirety, the costs associated with the following components:
  - (a) Operation and maintenance costs, including replacement as defined in section 18-301.
  - (b) Bond and/or loan amortization, including principal, interest, and applicable reserve and sinking funds.
  - (c) The rates for sewer usage shall be calculated based on the Chattanooga regional rate plus Collegedale's cost to serve. This method shall be used for water meter customers, bulk users, and regional users. Increases in the Chattanooga regional rate will automatically pass through; increases in Collegedale's cost to serve will require approval by ordinance.
- (2) In addition to the above cost components, industrial cost recovery payments shall be assessed in accordance with an existing City of Collegedale ordinance. (1977 Code, § 13-502, and amended by Ord. #1048, Nov. 2017))
- 18-303. <u>How cost is assessed</u>. (1) The cost for wastewater services shall be divided into components and assessed in accordance with the following:
  - (a) That the rates for sewer usage be revised as follows, effective July 1st, 2021:

Water meter billings users: \$11.44 per 1,000 gallons (with \$23.50 monthly minimum)

Bulk users: \$5.2712 per 1,000 gallons

Regional users: As established in interlocal agreement

(b) <u>Monthly charge for high strength wastewaters</u>. The following assessments, in addition to user charges, shall be levied for high strength wastewaters:

		Cost per Pound for
	Maximum Limit without	Pollutants Present
<u>Parameter</u>	<u>Additional Assessment</u>	Over Prescribed Maximums
BOD	$300~\mathrm{mg/l}$	0.0105124 \$/lb.
SS	400 mg/l	0.0143145 \$/lb.
COD	600 mg/l	0.0066 \$/lb.

The method of determining the concentration of pollutants shall be a composite sample collected over a twenty-four (24) hour interval on a quarterly basis. The city may require additional sampling, up to four (4) samples per month, if the analytical results vary substantially from a weighted average. The entire cost of sampling and analysis shall be borne by the customer.

- (c) <u>Monthly charge for toxic pollutants</u>. Any customer which discharges toxic pollutants that cause an increase in the cost of disposing of the effluent or the sludge, or any user which discharges any substance which singly or by interaction with other substances causes increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the responsible operating personnel and shall be approved by the city commission.
  - (d) Privilege connection fee. (1) The minimum privilege connection fee shall apply to the following structures: single-family structure or each unit of a duplex, triplex, or any other multi-unit residential structure; a single-unit non residential structure such as a school, church, service station, or other single-unit commercial structure; and each unit of a multi-unit non-residential structure such as a shopping center or other commercial structure shall be determined in accordance with the following schedule based on water meter sizes. The privilege connection fee for a multi-unit structure shall be calculated as if each unit were individually metered.

Water Meter Size	Sewer Tapping Fee
Less than 1"	\$ 450
1"	450
Between 1" & 2"	600
2"	900
3"	1,400
4"	3,000

6" 3,400 8" 4,500

- (2) The minimum privilege connection fee does not include the cost of service assembly; i.e., making tap and furnishing and installing service line, pavement, or other repair, or other restorative work, all of which is to be borne by the purchaser.
- (3) The city must approve the size and location of each private service line.
- (4) All connections and extensions to the city's system must comply with the specifications of the Tennessee Department of Health & Environment and the City of Collegedale.
- (5) The above delineated wastewater service charge shall be applied to all customers and there shall be no differentiation between customers located outside the city limits of Collegedale. (1977 Code,  $\S$  13-503, as amended by Ord. # 261, Jan. 1990; Ord. # 262, Jan. 1990; Ord. #292, Aug. 1992; Ord. #447,  $\S$  1, March 1996, and Ord. #1093, June 2021  $Ch8_07-19-21$ )
- 18-304. <u>Customers to be billed monthly; penalty for delinquency; discontinuance of service</u>. Each customer shall be billed monthly for wastewater services that are applicable to that particular customer. Notwithstanding any regulations to the contrary, all customers shall be assessed a monthly service charge based on their wastewater discharge.

All monthly charges are due and payable thirty (30) days after receipt, and if paid after said time period, the charges are subject to a late charge not to exceed ten (10) percent of the total charge.

Failure to pay said monthly charges within sixty (60) days of receipt will give the city the right to discontinue service without notice. If service is discontinued because of nonpayment of monthly charges, service will not be reinstated until the customer has paid the total cost of disconnection and reconnection. (1977 Code, § 13-504)

- 18-305. <u>Distribution of funds collected</u>. The funds received from monthly wastewater charges an connection fees shall be distributed on or before the tenth of the month following the months in which they are collected. Said funds shall be distributed in the sequence and manner as follows:
- (1) The funds due the City of Chattanooga, in accordance with contractual agreements and as approved by the mayor and city commission, shall be paid directly to that city.
- (2) That portion of the monthly service charge, which is currently  $28 \phi/1000$  gallons, designated as funds to be expended only for operation, maintenance, and replacement of the City of Collegedale portion of the wastewater systems, shall be deposited in the "Collegedale Wastewater Operation and Maintenance Fund." Expenditures from both of these established

funds shall be in accordance with current E.P.A. regulations. Said regulations currently require the annual surplus in the "Collegedale Operation and Maintenance Fund" remain in said fund and be utilized during the forthcoming year for operation and maintenance purposes only.

- (3) The funds amounting to one-twelfth (1/12) of the annual requirement for amortization of the bonds issued for sewer improvements to the Farmers Home Administration, plus one-twelfth (1/12) of the amount stipulated in the bond ordinance for the necessary reserve fund or funds, plus one-twelfth (1/12) of the annual amount required for repayment of the loan obtained from the State of Tennessee for construction of a wastewater interceptor system, shall be deposited in the "Collegedale Wastewater Bond and Loan Amortization Fund" and said funds may not be withdrawn from said account except for the specific purpose of satisfying the long term debts enumerated above.
- (4) The funds remaining after items (1), (2), and (3), have been satisfied, including any deficiencies that may have accrued in any of the said accounts, shall be deposited in the "Collegedale Wastewater Surplus Fund," and said funds may be utilized for any purpose that directly relates to the wastewater system or as directed by the mayor and city commission. (1977 Code, § 13-505, as amended by Ord. #291, May 1992)
- 18-306. Periodic review and revision of charges. The city will review the user charge system every two (2) years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement cost among users and user classes.

The city will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation, maintenance including replacement of the treatment works. (1977 Code, § 13-506)

- 18-307. Fees for industrial contributors of "process wastes." All existing and/or future industrial developments which contribute "process wastes" to the facilities constructed under the E.P.A. grant program shall be charged a fee in direct proportion to their "process waste" contribution or "reserve capacity" as compared to the design criteria of the wastewater treatment and transportation projects, which fee shall be in addition to the sewer service charges as provided by a separate ordinance. (1977 Code, § 13-507)
- 18-308. <u>Collection of certain charges for Chattanooga</u>. Certain portions of the wastewater interceptor and treatment facilities serving the City of Collegedale are to be owned and operated by the City of Chattanooga. The City of Collegedale shall collect from existing and/or future industrial developments an industrial cost recovery equal to an amount agreed upon by the two cities.

Said collections shall be awarded to the City of Chattanooga within thirty (30) days of receipt. (1977 Code, § 13-508)

- 18-309. Computation and amortization of industrial cost recovery amounts. The industria cost recovery amount shall be based on the federal government's share, excluding the cost of detection and repair of infiltration/inflow sources, of the project cost. Industries' payment shall be amortized over a 30 year cost recovery period and shall not include an interest component. (1977 Code, § 13-509)
- 18-310. <u>Distribution of first 50% of industrial charges collected</u>. The City of Collegedale shall retain 50 percent of the amounts recovered from assessments relating to the Collegedale portion of the interceptor system from the industrial users. After industrial cost recovery administrative costs are defrayed, eighty percent (80%) of the residual shall be deposited annually in the "Collegedale Wastewater Expansion Reconstruction Fund." The remaining twenty percent (20%) of the residual shall be deposited into the "Wastewater System Revenue Fund." (1977 Code, § 13-510)
- 18-311. <u>Distribution of remaining 50%</u>. The remaining fifty percent (50%) of the amounts recovered from assessments relating to the Collegedale portion of the interceptor system shall be deposited in the "Collegedale Industrial Cost Recovery Fund." The entire proceeds of this fund, including principal and interest, shall be remitted on an annual basis to the U.S. Treasury, through E.P.A. (1977 Code, § 13-511)
- 18-312. Expenditure of funds for expansion or reconstruction, etc. The eighty percent (80%) portion of the amount retained by the city pursuant to section 18-310, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of wastewater facilities associated with the project. Before said funds are expended from the "Collegedale Wastewater Expansion Reconstruction Fund" the city shall receive written approval of the proposed expenditures from the E.P.A. Regional Administrator.

The twenty percent (20%) portion of the retainage by the city pursuant to Section 18-310, shall not be utilized for construction of industrial pretreatment facilities or for rebates to industrial users for industrial cost recovery assessments or user charges. (1977 Code, § 13-512)

18-313. <u>Investment of funds pending use</u>. Pending use, the funds deposited in the "Collegedale Wastewater Expansion - Reconstruction Fund" and the "Collegedale Industrial Cost Recovery Fund" shall, at the direction of the mayor and city commission, be invested in obligations of the U.S. Government

or in obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof. (1977 Code, § 13-513)

18-314. <u>Definition of "industrial user or development."</u> For the purpose of this chapter, an industrial user or development is defined as follows: Any non-governmental, non-residential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A. Agriculture, Forestry, and Fishing

Division B. Mining

Division D. Manufacturing

Division E. Transportation, Communications, Electric, Gas, and Sanitary Services

Division I. Services

Sanitary wastes are to be excluded from assessment relating to industrial cost recovery. (1977 Code, § 13-514)

18-315. <u>Computation of industrial recovery charges</u>. The industrial recovery charges shall be based on the average flow, the pounds of BOD and the pounds of suspended solids contained in the waste after an allowance for domestic sewage has been deducted. Charges shall be in accordance with the following:

## INDUSTRIAL COST RECOVERY CHARGES

#### Parameter

#### **Annual Unit Costs**

Average Flow (Estimated or Observed)	\$26.69 per 1000 gpd
BOD (in excess of 300 mg/1)	\$ 1.30 per lbs. per day
Suspended Solids (in excess of 400 mg/1)	\$ 0.81 per lbs. per day

The above charges shall not be altered unless applicable portions of the system are expanded or upgraded, in which case, the then current E.P.A. regulations shall govern.

In no case shall the industrial cost recovery assessments exceed thirty (30) years. (1977 Code, § 13-515)

18-316. Metering facilities and sampling devices. The city shall furnish and install a flow meter to record both the total and peak flows. The initial cost of metering facility shall be borne by the industry. If the city deems that the waste may exceed a BOD concentration of 300 mg/l or a suspended solids concentration of 300 mg/l, the city may install, at the expense of the industry, a sampling device. (1977 Code, § 13-516)

18-317. <u>Annual assessments against industries</u>. The city shall, on or before the fifteenth day of October, issue an assessment to the industries covering the annual cost for the preceding year ending on the thirty-first day of August. If the assessment is not paid by the fifteenth day of November, the city will take whatever action is necessary, including but not limited to termination of wastewater service, to obtain full payment. (1977 Code, § 13-517)

## CHAPTER 4

## SEWER EXTENSION POLICY

## SECTION

- 18-401. Service offered to areas not presently served.
- 18-402. Sanitary sewer main extension agreement.
- 18-403. Areas outside city limits.
- 18-404. Sewer tap certificates.
- 18-405. Modification of extensions.
- 18-406. City may participate in cost.
- 18-407. Construction plans.
- 18-408. Permits and easements.
- 18-409. Review and acceptance of bids.
- 18-410. Computation of cost.
- 18-411. Payment of cost.
- 18-412. Inspection and approval of line.
- 18-413. Number of sewer tap certificates.
- 18-414. Service to contiguous areas.
- 18-415. Responsibility for construction.
- 18-416. Portions of system transferred to city.
- 18-417. Applications for individual services.
- 18-401. <u>Service offered to areas not presently served</u>. The City of Collegedale will provide sewer service to areas not presently served by the existing sewer system according to the policies provided in this chapter. (Ord. #292, Aug. 1992)
- 18-402. Sanitary sewer main extension agreement. Any party requiring sewer service to property that is not adjacent to existing sewer lines will enter into a sanitary sewer main extension agreement with the city for sewer service. The sanitary sewer main extension agreement is a contract between the party or parties requesting sewer service and the city. The agreement identifies the property to be served, number of single family equivalent taps for the property or the sewer tapping fee as determined by Ord. #262, Jan. 1990, for non-residential development, cost of the gravity line to the property, and credit for the line cost. The cost of the sewer main extension shall include engineering fees, easement acquisition cost and construction cost of the gravity portion of the line between the existing sewer system and the property boundary of the property. It does not include the cost of sewer lines within the property. The design and construction of the sewer main shall be in accord with the city and state regulations for sewer lines and must be permitted by both agencies prior to starting construction. The city may require competitive bids for the construction of the work. The persons requesting the extension will be

- responsible for payment of all work and cost relative to the extension. (Ord. #292, Aug. 1992)
- 18-403. <u>Areas outside city limits</u>. In addition to the above, property that is outside but is contiguous to the city limits must be annexed prior to receiving sewer service. (Ord. #292, Aug. 1992)
- 18-404. Sewer tap certificates. In consideration for the payment described in § 18-402, the city shall issue sewer tap certificates (credits) to the party making such payment for the gravity portion of the sanitary sewer main extension. Pump stations and force mains are excluded. The number of certificates shall be determined by the payment amount divided by the current tap fee but shall not exceed the number of single family tap equivalents or as determined by Ord. #262, Jan. 1990, for non-residential development in the property to be served. The sewer tap certificates may be redeemed by the holder for sewer taps at the stated value within a five year period from the date of issue. The city will require the certificates be redeemed before selling taps in the property to other parties. (Ord. #292, Aug. 1992)
- 18-405. <u>Modification of extensions</u>. The city may elect to modify the sewer line extension by paying the difference between the required line cost and modified cost. Such modifications may include but are not limited to size increase, manhole additions, service lateral additions, etc. (Ord. #292, Aug. 1992)
- 18-406. <u>City may participate in cost</u>. This policy governing sewer extensions shall not limit the city from participating in the cost of sewer main extension when the application warrants consideration due to favorable return on investment. (Ord. #292, Aug. 1992)
- 18-407. <u>Construction plans</u>. Prior to construction the developer will submit construction plans to the city for review and approval. The construction plans shall conform to the standards of design, construction and materials required by the city and the state. The city reserves the right to modify the sewer system by enlarging lines, adding manholes or services or other changes. The cost of the modifications will be reimbursed to the developer by the city. (Ord. #292, Aug. 1992)
- 18-408. <u>Permits and easements</u>. The developer will be responsible for obtaining all permits and easements necessary for the construction of the sanitary sewer line described above. (Ord. #292, Aug. 1992)
- 18-409. Review and acceptance of bids. The city retains the right of review and acceptance of the bids for construction. (Ord. #292, Aug. 1992)

- 18-410. <u>Computation of cost</u>. The total cost for extending the sanitary sewer line to the boundary of the property to be served shall be determined as the sum of the engineering fees, easement acquisition cost, and construction cost including materials and labor for installation of the gravity portion of the sanitary sewer line. (Ord. #292, Aug. 1992)
- 18-411. <u>Payment of cost</u>. Payment of the total cost for the sanitary sewer line shall be the responsibility of the developer. (Ord. #292, Aug. 1992)
- 18-412. <u>Inspection and approval of line</u>. Prior to placing the sanitary sewer line into services, the line shall be inspected and approved by the city and "record plans" of the construction provided to the city. (Ord. #292, Aug. 1992)
- 18-413. Number of sewer tap certificates. In consideration of the payment described in § 18-411 above, the city shall issue sewer tap certificates to the developer. The number of sewer tap certificates issued shall be determined by dividing the total cost for the sanitary sewer line, excluding the cost of pump stations, force mains, and the city's portion of the cost by the current sewer tap fee and rounding to the next lower whole number and not exceeding the number of single family tap equivalents from the project or at the value assigned for the sewer tapping fee in Ord. #262, Jan. 1990, for non-residential use not exceeding the applicable part of the line cost. The sewer tap certificates so issued shall be negotiable as payment for sewer taps on the sewer extension covered in this chapter. The tap certificates shall expire five (5) years after the date of issue. (Ord. #292, Aug. 1992)
- 18-414. Service to contiguous areas. It is understood that the city will provide sewer service to areas contiguous to the city only upon request of annexation of the area to the city. The developer agrees that at any future time should any part of the property become contiguous to the city limits of Collegedale, the developer, its/his/her or their heir(s), successor(s) and/or assign(s) will cause all of said property to be annexed to the city. (Ord. #292, Aug. 1992)
- 18-415. <u>Responsibility for construction</u>. Construction of sanitary sewer collection system to serve the interior of the property is the responsibility of the developer. The interior collection system shall be installed according to plans and specifications submitted to, and approved by, the city and the state.
- 18-416. <u>Portions of system transferred to city</u>. Such portions of the sanitary sewer collection system as may be approved and accepted by the city shall be transferred to the city, at no cost to the city, by the developer. Said instruments and or deeds shall include such easements as necessary for ingress, egress, operation and maintenance. (Ord. #292, Aug. 1992)

18-417. <u>Applications for individual services</u>. Applications for individual services (sewer taps) will be accepted upon completion of construction, receipt of "record plans", receipt of a waiver of lien from the contractor installing the sewer system, copies of permit approvals for operation from regulatory agencies, and proof that plumbing permits for the structures for which application is being made have been issued. (Ord. #292, Aug. 1992)

## CHAPTER 5

# WASTEWATER COLLECTION SYSTEM AND TREATMENT WORKS REGULATIONS

#### SECTION

- 18-501. General provisions.
- 18-502. Prohibitions and limitations on discharges into the publicly owned treatment works.
- 18-503. Exceptions to wastewater strength standard.
- 18-504. Wastewater discharge permit, discharge reports and administration.
- 18-505. Inspections, monitoring and entry.
- 18-506. Dangerous discharge notification requirements.
- 18-507. Enforcement and abatement.
- 18-508. Wastewater regulations board.
- 18-509. Superintendent.
- 18-510. Wastewater regulations board hearing procedure; judicial review.
- 18-511. Industrial users sewer surcharge.
- 18-512. Industrial cost recovery charge.
- 18-513. Miscellaneous fees.
- 18-514. Penalties for violations of chapter, permit conditions or order.

18-501. General provisions. (1) Purpose and policy. The purpose of this chapter is to set uniform requirements for users of the City of Collegedale's wastewater collection system and treatment works to enable the city to comply with the provisions of the Clean Water Act and other applicable federal and state laws and regulations, and to provide for the public health and welfare by regulating the quality and quantity of wastewater discharged into the city's wastewater collection system and treatment works. This chapter provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to certain users. This chapter establishes effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the publicly owned treatment works (hereinafter referred to as POTW) which will interfere with the operation of the POTW or contaminate the sewage sludge; to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or the atmosphere, or otherwise be incompatible with the treatment works; and to improve opportunities to recycle and reclaim wastewater and the sludges resulting from wastewater treatment. This chapter provides measures for the enforcement of its provisions and abatements of violations thereof. This chapter establishes a wastewater regulations board and its duties, and establishes the

duties of the superintendent to insure that the provisions of this chapter are administered fairly and equitably to all users.

- (2) <u>Definitions</u>. For purposes of this chapter, the following phrases and words shall have the meaning assigned below, except in those instances where the content clearly indicates a different meaning:
  - (a) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seg.
  - (b) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or an NPDES state without an approved state pretreatment program.
  - (c) "Authorized representative of industrial user." An authorized representative of an industrial user may be: (1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; (2) a general partner or proprietor of the industrial user is a partnership of proprietorship, respectively; (3) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.
  - (d) "Building sewer." A sewer conveying wastewater from the premises of a user to a community sewer.
    - (e) "Board." The wastewater regulations board.
  - (f) "Categorical standards." National pretreatment standards.
  - (g) "City." The City of Collegedale, Tennessee, a municipal corporation.
  - (h) "Community sewer." Any sewer containing wastewater from more than one premise.
  - (i) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the publicly owned treatment works' NPDES permit for which the publicly owned treatment works is designed to treat such pollutants to a substantial degree.
  - (j) "Control authority." The approval authority defined hereinabove, or the superintendent if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.
  - (k) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.
  - (l) "Environmental Protection Agency or EPA." The Environmental Protection Agency, an agency of the United States or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

- (m) "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 without consideration of time.
- (n) "Holding tank waste" Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.
- (o) "Incompatible pollutant." All pollutants other than compatible pollutants as defined as subsection (2)(i) of this section.
- (p) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317) into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the state.
- (q) "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).
- (r) "Interference." Inhibition or disruption of the sewer system, treatment processes or operations or which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal of the POTW in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (s) "Mass emission rate." The weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.
- (t) "Maximum concentration." The maximum amount of a specific pollutant in a volume of water or wastewater.
- (u) "National 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 industrial users.
- (v) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the federal register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any

source, the construction of which is commenced after the date of promulgation of the standard.

- (w) "National pollution discharge elimination system or NPDES permit." A permit issued to a POTW pursuant to Section 402 of the Act (33 U.S.C. 1342).
- (x) "Person." Any individual, partnership, copartnership, 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; the singular shall include the plural where indicated by the context.
- (y) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.
- (z) "Premises" A parcel of real estate or portion thereof including any improvements thereon which is determined by the superintendent to be a single user for purposes of receiving, using and paying for services.
- (aa) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes, or by other means, except as prohibited by 40 C.F.R. 403.6(d).
- (bb) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.
- (cc) "Publicly owned treatment works or 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 city. This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the City of Collegedale, a municipality, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (dd) "Reclaimed water." Water which, as a result of treatment of waste, is suitable for direct beneficial uses or a controlled use that would not occur otherwise.
- (ee) "Standard industrial classification. A classification pursuant to the <u>Standard Industrial Classification Manual</u> issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (ff) "Superintendent." The person designated by the city 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.

- (gg) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.
- (hh) "Treatment works." Any devices and systems used in the storage, treatment, recycling and reclamation of domestic sewage or industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; and including combined storm water and sanitary sewer systems.
- (ii) "Twenty-four hour, flow proportional composite sample." A sample consisting of several effluent portions collected during a twenty-four-hour period in which the portions of sample are proportionate to the flow and combined to form a representative sample.
- (jj) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the Environmental Protection Agency having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.
- (kk) "User." Any person, firm, corporation or governmental entity that discharges, causes or permits the discharge of wastewater into a community sewer.
- (ll) "Waste." Includes sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purpose of disposal.
- (mm) "Wastewater." Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.
- (nn) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.
- (00) "Waters of the State of Tennessee." Any water, surface or underground, within the boundaries of the state.

(3) <u>Abbreviations</u>. The following abbreviations shall have the following meanings:

(a) BOD: Biochemical oxygen demand.(b) CFR: Code of Federal Regulations.

(c) COD: Chemical oxygen demand.

(d) EPA: Environmental Protection Agency.

(e) GMP: Good management practices.

(f) l: Liter.

(g) MBAS: Methylene-blue-active substances.

(h) NPDES: National Pollutant Discharge Elimination

System.

(i) POTW: Publicly owned treatment works.(j) SIC: Standard industrial classification.

(k) SWDA: Solid Waste Disposal Act, 42 U.S.C. 6901 et

seq.

(l) U.S.C.: United States Code. (1977 Code, § 8-601)

18-502. Prohibitions and limitations on discharges into the public owned treatment works. (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be lawfully discharged into the publicly owned treatment works. Pretreatment of some wastewater discharge will be required to achieve the goals established by this chapter and the Clean Water Act. The specific limitations set forth in subsection (12) hereof, and other prohibitions and limitations of this chapter, are subject to change as necessary to enable the city to meet the requirements contained in its NPDES permit. The wastewater regulations board shall review said limitations from time to time to insure that they are sufficient to enable the treatments works to comply with NPDES permit, that they are sufficient to provide for a cost effective means of operating the treatment works, and that they are sufficient to protect the public health and the environment. The board shall recommend changes or modifications as necessary.

- (2) <u>Prohibited pollutants</u>. No person shall introduce into the publicly owned treatment works any of the following pollutants which acting either alone or in conjunction with other substances present in the POTW interfere with the operation of the POTW, as follows:
  - (a) Pollutants which create a fire or explosion hazard in the POTW:
  - (b) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0 or higher than 10.5;
  - (c) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers or other interference with the operation of or which cause injury to the POTW, including waxy or other

materials which tend to coat and clog a sewer line or other appurtenances thereto;

- (d) Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge of such volume or strength as to cause interference in the POTW;
- (e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding sixty-five (65) degrees centigrade (one hundred fifty (150) degrees Fahrenheit).
- (3) <u>Wastewater constituent evaluation</u>. The wastewater of every industrial user shall be evaluated upon the following criteria:
  - (a) Wastewater containing any element or compound which is not adequately removed by the treatment works which is known to be an environmental hazard;
  - (b) Wastewater causing a discoloration or any other condition in the quality of the city's treatment works' effluent such that receiving water quality requirements established by law cannot be met;
  - (c) Wastewater causing conditions at or near the city's treatment works which violate any statute, rule or regulation of any public agency of this state or the United States;
  - (d) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance;
  - (e) Wastewater causing interference with the effluent or any other product of the treatment process, residues, sludges, or scums, causing them to be unsuitable for reclamation and reuse or causing interference with the reclamation process;
  - (f) Wastewater having constituents and concentrations in excess of those listed in subsection (12), or which cause a violation of the limits in subsection (13).
- (4) <u>National pretreatment standards</u>. Certain industrial users are now or hereafter shall become subject to national pretreatment standards promulgated by the Environmental Protection Agency specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard, and shall also comply with any additional or more stringent limitations contained in this chapter. Compliance with national pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the

standards, unless a shorter compliance time is specified in the standard. Compliance with national pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards, unless a shorter compliance time is specified in the standard. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard. Except where expressly authorized by an applicable national pretreatment standard, no industrial user shall increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

- (5) Prohibitions on storm drainage and ground water. Storm water, groundwater, rain water, street drainage, roof top drainage, basement drainage, subsurface drainage or yard drainage, if unpolluted, shall not be discharged through direct or indirect connections to a community sewer unless a storm sewer or other reasonable alternative for removal of such drainage does not exist, and then only when such discharge is permitted by the user's wastewater discharge permit and the appropriate fee is paid for the volume thereof.
- (6) <u>Unpolluted water</u>. Unpolluted water, including but not limited to cooling water or process water, shall not be discharged through direct or indirect connections to a community sewer except on the same conditions as provided in subsection (5) hereinabove.
- (7) <u>Limitation on radioactive waste</u>. No person shall discharge or permit to be discharged any radioactive waste into a community sewer except:
  - (a) When the person is authorized to use radioactive materials by the Tennessee Department of Public Health or the Nuclear Regulatory Commission;
  - (b) When the waste is discharged in strict conformity with applicable laws and regulations of the aforementioned agencies or any other agency having jurisdiction; and
  - (c) When a copy of permits received from said regulatory agencies have been filed with the superintendent.
- (8) <u>Limitations on the use of garbage grinders</u>. Waste from garbage grinders shall not be discharged into a community sewer except when generated in preparation of food consumed on the premises, and then only where applicable fees therefor are paid. Such grinders must shred the waste to a degree that all particles will be carried freely under the normal flow conditions prevailing in the community sewers. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials or garden refuse. This provision shall not apply to domestic residences.
- (9) <u>Limitations on point of discharge</u>. No person shall discharge any substance directly into a manhole or other opening in a community sewer other than through an approved building sewer, unless he shall have been issued a temporary permit by the superintendent. The superintendent shall incorporate

in such temporary permit such conditions as he deems reasonably necessary to insure compliance with the provisions of this chapter, and the user shall be required to pay applicable charges and fees therefor.

- Septic tank pumping, hauling and discharge. No person owning vacuum or cesspool pump trucks or other liquid waste transport trucks shall discharge directly or indirectly into the POTW unless such person shall first have applied for and received a truck discharge operation permit from the superintendent. All applicants for a truck discharge operation permit shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent. The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one year from date of issuance; provided, that such permit shall be subject to revocation by the superintendent for violation of any provision of this chapter or reasonable regulation established by the superintendent. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The superintendent shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto.
- (11) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor, and shall comply with the conditions of the permit issued by the superintendent. Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.
- (12) <u>Limitations on wastewater strength</u>. No person or user shall discharge wastewater in excess of the concentrations set forth in the table below unless an exception has been granted the user under the provisions of section 18-503; or the wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

Davamatan	Maximum Concentration (24 Hour Flow) Proportional Composite Sample (mg/l)	Maximum Instantaneous Concentration
Parameter	Composite Sample (mg/l)	Grab Sample (mg/l)
Biochemical oxyg	en	
demand	*	-
Chemical oxygen		
demand	*	-
Suspended solids	*	-
Arsenic (As)	1.0	2.0
Cadmium (Cd)	1.0	2.0
Chromium Total	(CR) 5.0	10.0
Chromium Hex (0	Cr+6) 0.05	0.10
Copper (Cu)	5.0	10.0
Cyanide (CN)	2.0	4.0
Lead (Pb)	1.5	3.0
Mercury (Hg)	0.1	0.2
Nickel (Ni)	5.0	10.0
Selenium (Se)	1.0	2.0
Silver (Ag)	1.0	2.0
Zinc (Zn)	5.0	10.0
Oil & Grease		
petroleum and/o	r	
mineral)	100.0	200.00

<sup>\*</sup>Limited by design capacity.

(13) <u>Criteria to protect the treatment plant influent</u>. The superintendent shall monitor the treatment works influent for each parameter of the following table. The industrial users shall be subject to the reporting and monitoring requirements set forth in section 18-504 and section 18-505 as to these parameters. In the event that the influent at the treatment works reaches or exceeds the levels established by said table, the superintendent shall initiate technical studies to determine the cause of the influent violation and shall recommend to the board such remedial measures as are necessary, including but not limited to recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed, or in the event that there are changes in any applicable law or regulation affecting same, or in the event changes are needed for more effective operation of the POTW.

<u>Parameter</u>	Maximum Instanteneous Concentration Pr (Grab Sample in mg/l)	Maximum Concentration (24-Hour Flow oportional Composite Sample in mg/l)
Aluminum		
dissolved (AL)	15.00	30.00
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.05	0.1
Barium (Ba)	2.50	5.0
Boron (B)	1.00	2.0
Cadmium (Cd)	0.01	0.02
Chromiumtotal (C:	r) 1.50	3.0
Cobalt (Co)	5.00	10.0
Copper (Cu)	0.40	0.8
Cyanide (CN)	0.05	0.1
Fluoride (F)	10.00	20.0
Iron (Fe)	5.00	10.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.50	1.0
Mercury (Hg)	0.015	0.03
Nickel (Ni)	0.50	1.0
Phenols	1.00	2.0
Selenium (Se)	0.005	0.01
Silver (Ag)	0.05	0.0
TitaniumDissolved	l (Ti) 1.00	2.0
Zinc (Zn)	2.00	4.0
Total Kjeldahl		
Nitrogen (TKN)	45.00	90.0
Oil & Grease	25.00	50.0
MBAS	5.00	10.0
Total dissolved solid		3,750.0
BOD	*	,
COD	*	
Suspended Solids	*	

<sup>\*</sup>Not to exceed the design capacity of treatment works.

<sup>(14) &</sup>lt;u>Pretreatment requirements</u>. Users of the POTW shall design, construct, operate and maintain wastewater pretreatment facilities whenever necessary to reduce or modify the user's wastewater constituency to achieve compliance with the limitations in wastewater strength set forth in subsection (12) of this section, to meet applicable national pretreatment standards, or to

meet any other wastewater condition or limitation contained in the user's wastewater discharge permit.

- (15) Plans and specifications. Plans, specifications and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered engineer, and shall be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans within forty-five (45) days and shall recommend to the users any appropriate changes. Prior to beginning construction of said pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the superintendent. Prior to beginning construction the user shall also secure such building, plumbing or other permits that may be required by this code. The user shall construct said pretreatment facilities within the time provided in the user's wastewater discharge permit. Following completion of construction the user shall provide the superintendent with "as-built" drawings to be maintained by the superintendent.
- (16) Prevention of accidental discharges. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize that potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental procedures for such special permit conditions shall be developed by the user and submitted to the superintendent for review under the provisions of subsection (15) of this section. (1977 Code, § 8-602)
- 18-503. Exceptions to wastewater strength standard. (1) Applicability. This section provides a method for nonresidential users subject to the limitation on wastewater strength parameters listed in section 18-502(12) to apply for and receive a temporary exception to the discharge level for one or more parameters.
- (2) <u>Time of application</u>. Applicants for a temporary exception shall apply for same at the time they are required to apply for a wastewater discharge permit or a renewal thereof. Provided, however, that the superintendent shall allow applications at any time unless the applicant shall have submitted the same or substantially similar application within the preceding year and the same shall have been denied by the board.
- (3) <u>Written applications</u>. All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the board pursuant to subsection (5) hereof.

- (4) Review by superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty-day period may be extended by the board upon application and for just cause shown. Upon receipt of a complete application the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the board at its next regularly scheduled meeting.
- (5) <u>Review by board</u>. The board shall review and evaluate all applications for an exception and shall take into account the following factors:
  - (a) The board shall consider whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in section 18-502 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;
  - (b) The board shall consider whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;
  - (c) The board shall consider whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works, taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works:
  - (d) The board shall consider whether or not the granting of an exception might cause the treatment works to violate the limitations in its NPDES permit, taking into consideration the concentration of the pollutant and in the treatment works' influent and the demonstrated ability of the treatment works to consistently remove such pollutant;
  - (e) The board shall consider whether or not the granting of an exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by the city or which would cause the city to violate any regulation promulgated by EPA under the provisions of Section 405 of the Act (33 U.S.C. 1345);
  - (f) The board may consider the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception;
  - (g) The board may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

- (h) The board may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;
- (i) The board may consider the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge;
- (j) The board may consider an application for an exception based upon the fact that water conservation measures instituted by the user or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user without increasing the amount of mass of pollutants discharged. To be eligible for an exception under this provision, the applicant must show that except for water conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set for in section 18-502(12). Provided, however, no such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have a significant adverse impact upon the operation of the POTW.
- (6) Good management practices required. The board shall not grant an exception unless the applicant shall demonstrate to the board that he is utilizing good management practices (GMP) to prevent or reduce his contribution of pollutants to the POTW. GMP's include but are not limited to preventative operating and maintenance procedures, schedule of activities, process changes, prohibiting of activities, and other management practices to reduce the quality or quantity of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage.
- (7) Exception may be granted following review. The board shall review the application for an exception at the first regularly scheduled meeting following recommendation of the superintendent. It may grant the application for exception with such conditions or limitations as may have been recommended by the superintendent without a hearing provided that no person, including the applicant, shall object thereto, and provided further that the board finds that the granting of the exception with such conditions as have been recommended by the superintendent will be in compliance with the provisions of this chapter.
- (8) <u>Hearing</u>. In the event that the applicant objects to recommendations of the superintendent concerning conditions to be imposed upon the applicant, the board desires a hearing to further investigate the matter, or any interested party granted permission by the board to intervene objects to the granting of the exception, then in such event the board shall schedule a hearing within ninety (90) days following presentation of the matter by the superintendent to resolve such matters. At such hearing, the applicant, the superintendent, and any intervening party shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in

section 18-510 hereof shall be applicable to such a hearing. The applicant shall bear the burden of proof in such hearing. (1977 Code, § 8-603)

- 18-504. Wastewater discharge permit, discharge reports and administration. (1) Applicability. The provisions of this section are applicable to all industrial users of the POTW.
- (2) Application and permit requirements for industrial users. All industrial users of the POTW prior to discharging nondomestic waste into the POTW shall apply for an obtain a wastewater discharge permit in the manner hereinafter set forth. All original applications shall be accompanied by a report containing the information specified in subsection (3) hereof. All original applications shall also include a site plan, floor plan, mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size, location and elevation; and the user shall submit to the superintendent revised plans whenever alterations or additions to the user's premises affect said plans. Any currently connected user discharging waste other than domestic waste who has not heretofore filed such a report shall file same with the superintendent prior to February 21, 1979.
- Report requirements. The report required by subsection (2) above or other provisions of this chapter for all industrial users shall contain in units and terms appropriate for evaluation the information listed in (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the superintendent a report which contains the information listed in (a) through (g) below within one hundred and eighty (180) days after the promulgation by the Environmental Protection Agency of a national pretreatment standard under Section 307 (b) or (c) (33 U.S.C. 1317 (b) or (c)) of the Act or by February 21, 1979, where such national pretreatment standards have been promulgated prior to the effective date of this chapter; provided, that industrial users subject to the requirements of 40 C.F.R. Section 403.12 may file with the superintendent a copy of a report submitted to the control authority, as defined in said section, in lieu of the report herein provided. Industrial users who are unable to achieve a discharge limit set forth in section 18-502 hereof without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in (a) through (g) below. As specified hereinabove, the report shall contain all or applicable portions of the following.
  - (a) The name and address of the industrial user;
  - (b) The location of such industrial user;
  - (c) The nature, average rate of production and standard industrial classification of the operation(s) carried out by such industrial user;
  - (d) The average and maximum flow of the discharge from such industrial user to the POTW, in gallons per day;

- (e) The nature and concentration of pollutants in the discharge from each regulated process from such industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval;
- (f) A statement reviewed by an authorized representative of the industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval;
- (g) If additional pretreatment or operation and maintenance procedure will be required to meet the Pretreatment Standards, then the report shall contain the shortest schedule by which the industrial 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, when the context so indicates, the phrase "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the user's discharging any incompatible pollutant regulated by section 18-502 hereof. For purposes of this paragraph the term "pollutant" shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in section 18-502 hereof.

- (4) <u>Incomplete applications</u>. The superintendent will act only on applications that are accompanied by a report which contains all the information required in subsection (3) above. Persons who have filed incomplete applications will be notified by the superintendent 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 superintendent, the superintendent shall submit the application for a permit to the board with a recommendation that it be denied and notify the applicant in writing of such action.
- (5) Evaluation of applications. Upon receipt of complete applications, the superintendent shall review and evaluate the applications and shall propose such special permit conditions as he deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this chapter and all other applicable ordinances, laws and regulations. The superintendent may also propose that the wastewater discharge permit be subject to one or more special conditions in regard to any of the following.

- (a) Pretreatment requirements;
- (b) The average and maximum wastewater constituents and characteristics;
- (c) Limits on rate and time of discharge or requirements for flow regulations and equalization;
- (d) Requirements for installation of inspection and sampling facilities:
- (e) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
- (f) Requirements for submission of technical reports or discharge reports;
- (g) Requirements for maintaining records relating to wastewater discharge;
- (h) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as set forth in section 18-502) are proposed or present in the user's wastewater discharge;
- (i) Other conditions as deemed appropriate by the superintendent to insure compliance with this chapter or other applicable ordinance, law or regulation;
- (j) A reasonable compliance schedule, not to extend beyond July 1, 1983, or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods of operation and maintenance;
- (k) Requirements for the installation of facilities to prevent and control accidental discharge or spills at the user's premises;
- (l) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.
- (6) Applicant to be notified of proposed permit conditions; right to object. (a) Upon completion of his evaluation, the superintendent shall notify the applicant of any special permit conditions which he proposed to be included in the wastewater discharge permit;
  - (b) The applicant shall have forty-five (45) days from and after the date of the superintendent's recommendations for special permit conditions to review same and file written objections with the superintendent in regard to any special permit condition recommended by the superintendent. The superintendent may, but shall not be required to, schedule a meeting with applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning special permit conditions;
  - (c) If applicant files no objection to special permit conditions proposed by the superintendent, or a subsequent agreement is reached

concerning same, the superintendent shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein. Otherwise, the superintendent shall submit the disputed matters to the board for resolution as hereinafter provided.

- (7) <u>Board to establish permit conditions; hearing</u>. (a) In the event the superintendent cannot issue a wastewater discharge permit pursuant to subsection (6) above, the superintendent shall submit to the board his proposed permit conditions and the applicant's written objections thereto at the next regularly scheduled meeting of the board;
- (b) The board shall schedule a hearing within ninety (90) days following the meeting referred to hereinabove unless such time be extended for just cause shown to resolve any disputed matters relevant to such permit;
- (c) The superintendent shall notify the applicant of the date, time, place and purpose of the hearing scheduled by the board. The applicant shall have the right to participate in such hearing and present any relevant evidence to the board concerning proposed special permit conditions or other matters being considered by the board;
- (d) Following such hearing or such additional hearings as shall be deemed necessary and advisable by the board, the board shall establish such special permit conditions as it deems advisable to insure the applicant's compliance with this chapter or other applicable law or regulation and direct the superintendent to issue a wastewater discharge permit to the applicant accordingly.
- (8) <u>Compliance schedule and reporting requirements</u>. The following conditions shall apply to the schedule required by subsection (3), (5) or (7) of this section:
  - (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment requirements for the industrial user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction completing construction, etc.)
  - (b) No increment referred to in (8)(a) above shall exceed nine (9) months.
  - (c) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority and the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse

between such progress reports to the control authority and the superintendent.

- Within ninety (90) days following the date for final (d) compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the control authority and the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the industrial user which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance procedure or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, as defined in section 18-501 of this chapter, and certified to by a qualified professional.
- (e) Any industrial user subject to a pretreatment standard, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority and the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority and the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in subsection (3)(d) of this section. At the discretion of the control authority or the superintendent, as applicable, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority or the superintendent, as applicable may agree to alter the months during which the above reports are to be submitted. The control authority or the superintendent, as applicable, may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the industrial user.

- (f) The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by section 18-502(2)(d), by the industrial user.
- (g) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass limits where requested by the control authority or the superintendent, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the Environmental Protection Agency under the provisions of Section 304 (h) of the Act (33 U.S.C. 1314(h)) and contained in 40 C.F.R. Part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency or the superintendent. Sampling shall be performed in accordance with the techniques approved by the Environmental Protection Agency or the superintendent.
- (h) Any industrial user required by this paragraph to submit a similar report to the control authority under the provisions of 40 C.F.R. 403.12, may submit to the superintendent a copy of said report in lieu of a separate report to the superintendent, provided that all information required by this chapter is included in the report to the control authority.
- (9) <u>Maintenance of records</u>. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples.
  - (a) The date, exact place, method and time of sampling and the names of the persons taking the samples;
    - (b) The dates analyses were performed;
    - (c) Who performed the analyses;
    - (d) The analytical techniques/methods used; and
    - (e) The results of such analyses.
- (10) Retention of records. Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, the director of the division of water quality control, Tennessee Department of Public Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the director, or the Environmental Protection Agency.
- (11) <u>Duration of permits</u>. Wastewater discharge permits shall be issued for a period of three (3) years. Provided that original permits may be issued for

a period between two (2) and three (3) years for the administrative convenience of the superintendent so as to stagger the renewal dates of the permits. Provided further that permits issued to users granted an exception pursuant to section 18-503 shall be issued for a period of one year. Notwithstanding the foregoing, users becoming subject to a national pretreatment standard shall apply for new permits on the effective date of such national pretreatment standards. The superintendent shall notify in writing any user whom he has cause to believe is subject to a national pretreatment standard of the promulgation of such federal regulations, but any failure of the superintendent in this regard shall not relieve the user of the duty of complying with such national pretreatment standards. A user must apply in writing for a renewal permit within the period of time not more than ninety (90) days and not less than thirty (30) days prior to expiration of the current permit. Provided further that limitations or conditions of a permit are subject to modification or change as such changes may become necessary due to changes in applicable water quality standards, changes in the city's NPDES permit, changes in section 18-502(12), changes in other applicable laws or regulations, or for other just causes. Users shall be notified of any proposed changes in their permit by the superintendent at least thirty (30) days prior to the effective date of the change. Any change or new condition in a permit shall include a provision for a reasonable time scheduled for compliance. The user may appeal the decision of the superintendent in regard to any changed permit conditions as otherwise provided in this chapter.

- (12) <u>Transfer of a permit</u>. 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 or for different premises, unless approved by the superintendent.
- (13) <u>Revocation of permit</u>. 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:
  - (a) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation;
  - (b) Obtaining of a permit by misrepresentation or failure to disclose fully all relevant facts; or
  - (c) A change in any condition that requires either temporary or permanent reduction or elimination of the permitted discharge. (1977 Code, § 8-604)
- 18-505. <u>Inspections</u>, <u>monitoring and entry</u>. (1) <u>Procedures to be established by superintendent</u>. Whenever required to carry out the objective of this chapter, including but not limited to developing or assisting in the development of any effluent limitation or other limitations, prohibition or effluent standards, pretreatment standard, standard of performance, or permit condition under this chapter; determining whether any person is in violation of

any such effluent limitation or other limitation, prohibition or effluent standard, pretreatment standard, standard of performance or permit condition; any requirement established under this section:

- (a) The superintendent shall require any nondomestic user to establish and maintain records; make such reports; install, use and maintain such monitoring equipment or methods (including, where appropriate, biological monitoring methods); sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the superintendent shall prescribe); and provide such other information as he may reasonably require; and
- (b) The superintendent or his authorized representative, upon presentation of his credentials shall have a right of entry to, upon or through any premises in which an effluent source is located or in which any records required to be maintained under clause (a) of this subsection are located; and may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (a), and sample any effluents which the owner or operator of such source is required to sample under such clause.
- (2) Access to records. Any records, reports or information obtained under this section shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment or permit condition, and shall be available to the public, except that upon a showing satisfactory to the superintendent by any person that records, reports or information, or a particular part thereof (other than effluent data), to which the superintendent has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the superintendent shall consider such record, report or information, or a particular portion thereof confidential in accordance with the purposes of this chapter, except that such record, report of information may be disclosed to officers, employees or authorized representatives of the State of Tennessee or the United States concerned with carrying out the provisions of the Clean Water Act or when relevant in any proceeding under this chapter or other applicable laws.
- (3) Specific testing procedures to be prescribed. Specific requirements under the provisions of subsection (1)(a) of this section shall be established by the superintendent or the board, as applicable, for each industrial user, and such requirements shall be included as a condition of the user's wastewater discharge permit. The nature or degree of any requirement under this provision shall depend upon the nature of the user's discharge, the volume of water discharged and the technical feasibility of an economic reasonableness of any such requirement imposed. The user shall be required to design any necessary facility and to submit detailed design plans and operating procedures to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans within forty-five (45) days and shall recommend to the user any change he deems appropriate.

- (4) <u>Start of construction, procedures</u>. Upon approval of plans as specified in subsection (3), the user shall secure such building, electrical, plumbing or other permits as may be required by this Code and proceed to construct any necessary facility and establish such operating procedures as are required within the time provided in the user's wastewater discharge permit.
- (5) <u>Enforcement of right of entry</u>. In the event any user denies the superintendent or his authorized representative the right of entry to or upon the user's premises for purposes of inspection, sampling effluents or inspecting and copying records, or performing such other duties as shall be imposed upon him by this section, the superintendent shall seek a warrant or use such other legal procedures as shall be advisable and reasonably necessary to discharge his duties under this section.
- (6) <u>User's failure to discharge duty deemed a violation of permit</u>. Any user failing or refusing to discharge any duty imposed upon him under the provisions of this section, or who denies the superintendent the right to enter upon the user's premises for purposes of inspection, sampling effluents, inspecting and copying records, or such other duties as may be imposed upon him by this section, shall be deemed to have violated the conditions of his wastewater discharge permit, and such permit shall be subject to modification, suspension, or revocation under the procedures established in this chapter. (1977 Code, § 8-605)
- 18-506. <u>Dangerous discharge notification requirements</u>. (1) <u>Telephone notification</u>. Any person causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons or to the environment, or which is likely to cause interference with the POTW, shall notify the superintendent immediately by telephone. In the absence of the superintendent, notification shall be given to the city employee then in charge of the treatment works.
- (2) Written report. Within five (5) days following such occurrence, the user shall provide the superintendent with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to 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 other applicable law.
- (3) 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. (1977 Code, § 8-606)

- 18-507. <u>Enforcement and abatement</u>. (1) <u>Unauthorized discharge a public nuisance</u>. Discharge of wastewater in any manner in violation of this chapter or of any condition of a wastewater discharge permit is hereby declared a public nuisance and shall be corrected or abated as provided herein.
- (2) <u>Superintendent to notify user of violation</u>. Whenever the superintendent determines or has reasonable cause to believe that a discharge of wastewater has occurred in violation of the provisions of this chapter, the user's wastewater discharge permit or any other applicable law or regulation, he shall notify the user of such violation. Failure of the superintendent to provide notice to the user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.
- (3) <u>Conciliation meetings</u>. The superintendent may, but shall not be required to, invite representatives of the user to a conciliation meeting to discuss the violation and methods of correcting the cause of the violation. Such additional meetings as the superintendent and the user deems advisable may be held to resolve the problem. If the user and the superintendent can agree to appropriate remedial and preventative measures, they shall commit such agreement to writing with provisions for a reasonable compliance schedule, and the same shall be incorporated as a supplemental condition of the user's wastewater discharge permit. If an agreement is not reached through the conciliation process within sixty (60) days, the superintendent shall institute such other actions as he deems advisable to ensure the user's compliance with the provisions of this chapter or other laws or regulations.
- Show cause hearing. The superintendent may issue a show cause notice to the user directing the user to appear before the wastewater regulations board at a specified date and time to show cause why the user's wastewater discharge permit should not be modified, suspended or revoked for causing or suffering violation of this chapter or other applicable laws or regulations, or conditions in the wastewater discharge permit of the user. If the superintendent seeks to modify the user's wastewater discharge permit to establish wastewater strength limitations or other control techniques to prevent future violation, he shall notify the user of the general nature of the recommendations he shall make to the board. If the superintendent seeks to suspend or revoke the user's wastewater discharge permit, he shall notify the user of the nature of the violation for which revocation or suspension is sought with sufficient specificity as to the character of the violation and the dates at which such violation occurred to enable the user to prepare his defense. Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least twenty (20) days prior to the scheduled hearing date.
- (5) <u>Citation to city court</u>. The superintendent may cite the user to Collegedale City Court for violation of any provision of this chapter or other ordinance. A violation of any condition of the user's wastewater discharge permit shall be deemed to be a violation of this chapter.

- (6) <u>Injunctive relief</u>. Upon resolution of the board of commissioners approving same the superintendent shall in the name of the City of Collegedale file in Circuit or Chancery Court of Hamilton County, Tennessee, or such other courts as may have jurisdiction, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this chapter or other applicable law or regulation. Suit may be brought to recover any and all damages suffered by the city as a result of any action or inaction of any user or other person who causes or suffers damage to occur to the POTW or for any other expense, loss or damage of any kind or nature suffered by the city.
- (7) Assessment of damages to users. When a discharge of waste causes an obstruction, damage or any other impairment to the facilities, or any expense of whatever character or nature of the city, the superintendent shall assess the expenses incurred by the city to clear the obstruction, repair damage to the facility, and any other expenses or damages incurred by the city. The superintendent shall file a claim with the user or any other person causing or suffering said damages to occur, seeking reimbursement for any and all expenses or damages suffered by the city. If the claim is ignored or denied, the superintendent shall notify the city attorney to take such measures as shall be appropriate to recover any expense or other damages suffered by the city.
- (8) Superintendent may petition for federal or state enforcement. In addition to other remedies for enforcement provided herein, the superintendent may petition the State of Tennessee or the Environmental Protection Agency, as appropriate, to exercise such methods or remedies as shall be available to such government entities to seek criminal or civil penalties, injunctive relief, or such other remedies as may be provided by applicable federal or state laws to ensure compliance by industrial users of applicable pretreatment standards, to prevent the introduction of toxic pollutants or other regulated pollutants into the POTW, or to prevent such other water pollution as may be regulated by state or federal law.
- (9) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons or cause interference with the POTW, the superintendent or in his absence the person then in charge of the treatment works shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned official of the city, or in his absence, such elected officials of the city as may be available, the superintendent shall temporarily terminate the service of such user or users as is necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

- (10) <u>Notice to board</u>. The superintendent shall report to the board his intent to institute any action under the provisions of subsection (5), (6) and (8) hereof and seek the advise of the board in regard thereto, unless he shall determine that immediate action is advisable. (1977 Code, § 8-607)
- 18-508. <u>Wastewater regulations board</u>. (1) <u>Established</u>. There is hereby established a board of five (5) members to be known as the wastewater regulations board.
- Composition; terms; filling vacancies. The five (5) members of this board shall be appointed by the mayor, subject to the approval of the board of commissioners. The mayor shall appoint one member each with the following qualifications: one environmental engineer or environmental scientist, one attorney, one person employed in an industrial or commercial establishment regulated by this chapter, and one person who is experienced in the science or The remaining member shall be an officer, agent or practice of finance. employee of the city. The initial members of this board shall be appointed for terms as follows: one member for a term of one year, two (2) members for a term of two (2) years, and two (2) members for a term of three (3) years. Thereafter, all members shall be appointed for a term of five (5) years. All members shall serve until their successor is appointed, and all members shall serve at the pleasure of the board of commissioners. In the event of a vacancy, the mayor shall appoint a member to fill the unexpired term. The board shall organize and select its own chairman, vice-chairman and secretary, who shall serve in said offices for terms of one year. The members shall serve without compensation, but shall receive their actual expenses incurred in attending meetings of the board and the performance of any duties as members of the board.
- (3) <u>General duties of the board</u>. In addition to any other duty or responsibility otherwise conferred upon the board by this chapter, the board shall have the duty and power as follows:
  - (a) To recommend from time to time to the board of commissioners that it amend or modify the provisions of this chapter;
  - (b) To grant exceptions pursuant to the provisions of section 18-503 hereof, and to determine such issues of law and fact as are necessary to perform this duty;
  - (c) To hold hearings upon appeals from orders or actions of the superintendent as may be provided under any provision of this chapter;
  - (d) To hold hearings relating to the suspension, revocation or modification of a wastewater discharge permit as is provided in this chapter and issue appropriate orders relating thereto;
  - (e) To hold such other hearings relating to any aspect or matter in the administration of this chapter and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this chapter;

- (f) To request assistance from any officer, agent or employee of the city or the Chattanooga-Hamilton County Regional Planning Commissioner to obtain such information or other assistance as the board might need;
- (g) The board acting through its chairman, shall have the power to issue subpoenas requiring attendance and testimony of witnesses and the production of documentary evidence relevant to any matter properly heard by the board;
- (h) The chairman, vice-chairman or chairman pro tem shall be authorized to administer oaths to those persons giving testimony before the board;
- (i) The board shall hold regular meetings, normally once per calendar month, and such special meetings as the board may find necessary;
- (j) Four (4) members of the board shall constitute a quorum, but a lesser number may adjourn the meeting from day to day. (1977 Code, § 8-608)
- 18-509. <u>Superintendent</u>. (1) <u>Superintendent and staff</u>. The superintendent and his staff shall be responsible for the administration of all sections of this chapter. Administratively, he shall report to the mayor and the commissioners.
- (2) <u>Authority of superintendent</u>. The superintendent shall have the authority to enforce all sections of this chapter. He shall be responsible for and have the authority to operate the various treatment works. He shall be responsible for the preparation of operating budgets and recommendations to the mayor concerning activities within his responsibility and authority.
- (3) <u>Records</u>. The superintendent shall keep in his office all applications required under this chapter and a complete record thereof, including a record of all wastewater discharge permits. He shall also maintain the minutes and other records of the wastewater regulations board.
- (4) <u>Superintendent to assist board</u>. The superintendent shall attend all meetings of the wastewater regulations board, or whenever it is necessary for him to be absent he shall send a designated representative, and shall make such reports to and assist said board in the administration of this chapter.
- (5) Notice to users of standards. The superintendent shall notify industrial users identified in 40 C.F.R. 403.8(f) (2) (i) of any applicable pretreatment standards or other applicable requirements promulgated by the Environmental Protection Agency under the provisions of Section 204(b) of the Act (33 U.S.C. 1284), Section 405 of the Act (33 U.S.C. 1345), or under the provisions of Sections 3001 (42 U.S.C. 6921), 3004 (42 U.S.C. 6924) or 4004 (42 U.S.C. 6944) of the Solid Waste Disposal Act. Failure of the superintendent to so notify industrial users shall not relieve said users from the responsibility of complying with said requirements.

- (6) Public participation. The superintendent shall comply with all applicable public participation requirements of Section 101(e) of the Act (33 U.S.C. 1251(e)) and 40 C.F.R. Part 105 in the enforcement of national pretreatment standards. The superintendent shall at least annually provide public notification, in the largest daily newspaper published in Chattanooga, of industrial users during the previous twelve (12) months which at least once were not in compliance with the applicable pretreatment standards or other pretreatment requirements. The notification shall summarize enforcement actions taken by the control authorities during the same twelve (12) months. An industrial user shall be deemed to be in compliance with applicable pretreatment standards or other pretreatment requirements if he has completed applicable increments of progress under the provisions of any compliance schedule in the user's wastewater discharge permit or if the user has been granted an exception under the provisions of section 18-503. (1977 Code, § 8-609)
- 18-510. <u>Wastewater regulations board hearing procedure; judicial review</u>. (1) <u>When to be held</u>. The wastewater regulations board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this chapter.
- (2) Record of hearing. At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have said hearing recorded stenographically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the board with the original of the transcript so that it may be certified to the court.
- (3) <u>Subpoenas</u>. The chairman may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairman at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chairman, the same shall be delivered to the chief of police for service by any police officer of the city, if the witness resides within the city. If the witness does not reside in the city, the chairman shall issue a written request that the witness attend the hearing.
- (4) <u>Depositions</u>. Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under said rules.

- (5) <u>Hearing procedure</u>. The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by any witnesses which the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate any orderly hearing subject to approval of the board. The board, the superintendent, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.
- by any order or determination of the superintendent may appeal said order or determination to the board and have said order or determination reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the superintendent and with the chairman, and said notice shall set forth with particularity the action or inaction the superintendent complained of and the relief sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the superintendent appealed from until such time as the board has acted upon the appeal. Provided, however, that actions and determinations of the superintendent under the provisions of section 18-507(5) through (9) inclusive shall not be subject to review under this section.
- (7) <u>Absence of chairman</u>. The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.
- (8) Review of board's decision. Any person aggrieved by any final order of determination of the board hereunder shall have judicial review by common law writ of certiorari. (1977 Code, § 8-610)
- 19-511. <u>Industrial users sewer surcharge</u>. (1) <u>Levy of industrial user surcharge</u>. There shall be and is hereby levied upon industrial users which discharge wastewater in concentrations in excess of normal wastewater a surcharge as set forth in this section.
- (2) <u>Definitions</u>. For the purpose of this section, the following words and phrases shall have the meanings assigned below, except in those instances where content clearly indicates a different meaning.

"Discharge monitoring report." A report submitted by an industrial user to the superintendent pursuant to Section 18-504 or other applicable provisions of this chapter containing information relating to the nature and concentration of pollutants and flow characteristics of the discharge from the industrial user to the POTW.

"Normal wastewater." Effluent which contains constituents and characteristics similar to effluent from a domestic premise and,

specifically for the purposes of this section, does not contain BOD, COD or suspended solids in concentrations in excess of the following:

BOD--Three hundred (300) milligrams per liter.

COD--Six hundred (600) milligrams per liter.

Suspended solids--Four hundred (400) milligrams per liter.

(3) <u>Charge formula</u>. This industrial user surcharge is based upon an estimate of the increased operation and maintenance cost and other increased expenses incurred in the handling of such wastewater as determined by the following formula:

$$C_s = ((B_c \times B) + (S_c \times S) + (D_c \times D) + (P_c \times P)) V_u \times 8.34$$

#### WHERE:

CS = Surcharge for wastewaters exceeding the strength of normal wastewater expressed in dollars per billing period.

BC = Operation and maintenance (O & M) cost for treatment of a unit of  $BOD_5$  from a user above the base level of 300 mg/l expressed in mg/l.

Sc = Operation and maintenance (O & M) cost for treatment of a unit of suspended solids expressed in dollars per pound.

S = Concentration of suspended solids from a user above the base level of 400 mg/l, expressed in mg/l.

D = Concentration of COD from a user above the base level 600 mg/l, expressed in mg/l.

Dc = Operation and maintenance (O & M) cost for treatment of a unit of COD expressed in dollars per pound.

Pc = Operation and maintenance (O & M) cost for treatment of a unit of any pollutant which the city is committed to treat by virtue of its NPDES permit or other regulatory requirement expressed in dollars per pound.

P = Concentration of any pollutant from a user above the base level. Base levels for pollutants subject to surcharges as may be hereafter established by the city expressed in mg/l.

Vu = Volume contribution of a user per billing period. Expressed in million gallons.

8.34 = Conversion factor to make units cancel. Expressed as (pounds/million gallons) / mg/l.

(4) <u>Rates</u>. Based upon the current estimated cost of treating wastewater containing constituents with concentrations in excess of normal wastewater, numerical rates are hereby established for Bc, Sc and Dc as follows:

Bc = \$0.0105124 per pound of BOD for concentrations in excess of 300 milligrams per liter.

Sc = \$0.0143145 per pound of suspended solids for concentrations in excess of 40 milligrams per liter.

Dc = \$0.0066148 per pound of COD for concentrations in excess of 600 milligrams per liter.

- (5) <u>Billing</u>. The superintendent shall notify and in conjunction with a normal bill charge each industrial user within sixty (60) days following the semiannual periods ending on December 31 and June 30, and said surcharges shall be payable no later than April 1 and October 1 respectively.
- (6) <u>Data concerning concentration</u>. The concentrations of any pollutant of an industrial user and the volume contribution of that user shall be calculated from discharge monitoring reports submitted by the industrial user subject to verification by inspection and monitoring and undertaken by the superintendent pursuant to section 18-505, from records maintained by the industrial user pursuant to section 18-504, and from reliable information obtained from any other source.
- User charge studies. The superintendent shall, based upon a documented study, recommend to the board of commissioners no less frequently than biannually an equitable rate structure for purposes of establishing a basic user charge computed on the basis of normal wastewater and a surcharge for industrial users which discharge effluent in concentrations in excess of normal wastewater. The superintendent shall consider in his report the amount of revenue needed for the purposes specified in section 18-501, consistent with all applicable Federal and State laws and regulations. Said recommendation shall be based upon the premise that each user (or user class) pays his proportionate share of the operation and maintenance (including replacement) costs of the treatment works, based upon the user's proportionate contribution to the total wastewater loading from all users (or user classes). The superintendent shall also recommend as warranted that surcharges be placed upon specific wastewater constituents, including a surcharge for all users which discharge any toxic pollutant which causes an increase in the cost of managing the effluent or the sludge of the city's treatment works, so as to recover such increased costs. In making his recommendation relative to changes in user charges or surcharges, the superintendent may recommend that any excess revenues or any deficiency in revenues collected from a class of users in the preceding period be applied to the operation and maintenance cost attributed to that class for the next period and that the rate for that class of users be adjusted accordingly.
- (8) Appeal. An industrial user may contest the accuracy of a user sewer surcharge bill by paying said bill under protest and within thirty (30) days following the date of the bill lodging with the superintendent a notice of appeal to the wastewater regulation board. No particular form of notice of appeal is required, but it shall set forth with particularity the nature of any errors alleged committed in the computation of said bill. Unless the superintendent shall agree to correct any error or enter into a reasonable compromise concerning same, he shall notify the board at its next regularly scheduled meeting of the pendency of an appeal. The board shall, upon notice

to the industrial users, schedule a hearing to receive evidence relating to the matters and shall render such determinations and issue such orders as the law and facts of the case may require. (1977 Code, § 8-611)

- 18-512. <u>Industrial cost recovery charge</u>. (1) <u>Purpose</u>. There shall be and is hereby levied upon each industrial user of the city's treatment works an industrial cost recovery charge as set forth in this section. The amount of the charge for an individual industrial user is to be calculated to insure that each industrial user pays an annual amount equal to its share of the total amount of Environmental Protection Agency Step l, Step 2 and Step 3 grants, including any grant amendments awarded under the provisions of applicable federal regulations relating to same, divided by the number of years in a recovery period. Each industrial user's share shall be based on factors which significantly influence the cost of the treatment works. The volume of flow shall be a factor in determining the industrial user's share; other factors shall include strength, volume and delivery flow characteristics to insure that all industrial users of the treatment works pay a proportionate distribution of the grant assistance allocable to industrial use.
- (2) <u>Definitions</u>. For the purpose of this section, the following words and phrases shall have the meanings assigned below, except in those instances where content clearly indicates a different meaning:
  - (a) "Combined sewer." A sewer intended to serve as a sanitary sewer and a storm sewer or as an industrial sewer and a storm sewer.
  - (b) "Discharge monitoring reports." A report submitted by an industrial user to the superintendent pursuant to section 18-504 or other applicable provisions of this chapter containing information relating to the nature and concentration of pollutants and flow characteristics of the discharge from the industrial user to the POTW.
    - (c) "Industrial user." (i) Any nongovernmental, nonresidential user of the city's publicly owned treatment works which discharges more than the equivalent of twenty-five thousand (25,000) gallons per day (gpd) of sanitary wastes and which is identified in the <u>Standard Industrial Classification Manual</u>, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

Division A--Agriculture, forestry and fishing.

Division B--Mining.

Division D--Manufacturing.

Division E--Transportation, communications, electric, gas and sanitary services.

Division I--Services; or

(ii) Any nongovernmental user of the city's publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other waste to contaminate the sludge of the system or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

- (iii) Provided, however, that for the purpose of determining the amount of a user's discharge for purposes of industrial cost recovery, the amount of the user's discharge from sanitary conveniences and other domestic waste will be excluded. Provided further, that after applying the aforementioned sanitary waste exclusion, discharges in Divisions A through I that have a volume exceeding twenty-five thousand (25,000) gpd of sanitary waste are considered industrial users. Sanitary wastes, for the purpose of the calculation of equivalency, are deemed to be wastes equivalent to wastes discharged from industrial users. The strength of residential discharges in terms of the parameters including COD are as set forth for normal wastewater as defined in section 18-511(2).
- (d) "Infiltration." Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, foundations drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, storms waters, surface run-off, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.
- (e) "Step 1, Step 2, and Step 3 Grants." Grant monies received by the city from the Environmental Protection Agency under the authority of the Clean Water Act to assist in the construction of the city's treatment works. The construction of federally financed waste treatment works is generally accomplished in three steps. Step 1, facility plans and related elements; step 2, preparation of construction drawings and specifications; and step 3, building of a treatment works.
- (f) "Useful life." Estimated period during which a treatment works will be operated. For purposes of this section, this period shall be thirty (30) years.
- (3) <u>Basis of industrial cost recovery</u>. The amount of the industrial cost recovery charge will be based upon the total dollar amount of federal grant monies received by the city after March 1, 1973, for the purpose of constructing additions or improvements to the city's treatment works and appurtenances under the provisions of Section 204 (b) of the Act, as amended (33 U.S.C. 1284),

and regulations promulgated thereunder, specifically 40 C.F.R. Part 35. The period of industrial cost recovery shall be thirty (30) years.

- (4) Reserve capacity. If an industrial user enters into an agreement with the city to reserve a certain capacity in the treatment works, that user's industrial cost recovery payment shall be based on the total reserve capacity in relation to the design capacity of the treatment works. If the discharge of an industrial user exceeds the reserve capacity in volume, strength or delivery flow characteristics, the user's industrial cost recovery payment shall be increased to reflect the actual use. If there is no reserve capacity agreement between the industrial user and the city, and a substantial change in the strength, volume or delivery flow rate characteristics of an industrial user's discharge share occurs, the user's share shall be adjusted proportionately.
- (5) <u>Upgrading and expansion</u>. (a) If the treatment works are upgraded, each existing industrial user's share shall be adjusted proportionately.
  - (b) If the treatment works are expanded, each industrial user's share shall be adjusted proportionately except that a user with a reserve capacity under subsection (2) of this section shall incur no additional industrial cost recovery charges unless the user's actual use exceeded its reserve capacity.
- (6) <u>Charge formula</u>. The charge for industrial cost recovery shall be computed according to the following formula.

$$CR = \frac{1}{n} \left( Cv \ x \frac{Vu}{Vt} + Cb \ x \ \frac{Bu}{B} + Cs \ x \ \frac{Su}{S} + Cd \ x \ \frac{Du}{D} \right)$$

#### WHERE:

Cr = Recovery cost to user per billing period.

N = Number of billing periods per useful life of improvements, expansions, and facilities covered by grant funds.

Vu = Average daily flow of industrial user during billing period.

Vt = Total average daily flows of all users during billing period.

Bu = Average daily BOD load of industrial user during billing period.

B = Total average daily loading of BOD from all users during billing period.

Su = Average daily load of suspended solids of industrial user during billing period.

- S = Total average daily loading of suspended solids from all users during billing period.
- D = Total average daily loading of COD from all users during billing period.

Du = Average daily COD load of industrial user during billing period.

Cv = Cost attributable to flow intreatment.

Cb = Cost attributable to BOD treatment.

Cs = Cost attributable to SS treatment.

Cd = Cost attributable to COD treatment.

WHERE: Cv, Cb, Cd and Cs are determined as follows:

$$C = Cv + Cb + Cs + Cd$$

C = Amount of federal grants for improvements, expansions, and new facilities, excluding those portions of the grant attributable to.

- (a) Infiltration or inflow correction or treatment.
- (b) Correction of combined sewer overflow and collection or treatment of storm waters.
- (c) Projects which will not initially serve industrial users. These projects will be included in "C" when the first industrial user begins to use them.
- (d) Unreserve excess capacity of the treatment works. This amount will be adjusted when existing or new industrial users begin to use some of the unreserved excess capacity.

AND WHERE those portions of "C" which are not directly attributable to flow, BOD, COD, or SS treatment will be spread among the costs associated with treating these characteristics in the following manner:

 $\begin{array}{rcl} Cv & = & Cx \times M \\ Cb & = & Cy \times M \\ Cs & = & Cz \times M \\ Cd & = & Cw \times M \end{array}$ 

Cw = That portion of "C" which is directly attributable to COD treatment

Cx = That portion of "C" which is directly attributable to flow treatment

Cy = That portion of "C" which is directly attributable to BOD treatment.

Cz = That portion of "C" which is directly attributable to SS treatment.

 $M = \frac{C}{Cw + Cx + Cy + Cz}$  (Multiplier)

(7) <u>Rates</u>. Based upon current estimates, numerical rates are hereby established for N, Vt, B, S, D, Cv, Cb, Cd and Cs, as follows:

$$N = 30 \text{ years}$$

Cv = \$93,990.00

Cb = 0

Cs = 0

Cd = 0

Vt = 15.809449 MGD

B = 97,529.9 pounds/day

S = 51,155.3 pounds/day

D = 196,541.4 pounds/day

- (8) <u>Billing</u>. The superintendent shall annually bill each industrial user for the industrial cost recovery charge within sixty (60) days following June 30.
- (9) <u>Data concerning loading</u>. The average daily loading of all users shall be calculated from records relating to same maintained by the superintendent. The average daily load of an industrial user shall be calculated from discharge monitoring reports submitted to the industrial user subject to verification by inspection and monitoring undertaken by the city pursuant to section 18-505 and from records maintained by the industrial user pursuant to section 18-504 and from reliable information obtained from any other source.
- (10) Annual study. The superintendent shall, based upon a documented study, recommend to the board of commissioners no less than annually adjustments to the formula contained in this section taking into consideration the total amount of grant monies received, the costs of operation of the treatment works and its appurtenances, factors relating to determining the industrial user's share of costs, and other factors specified in this section and in other applicable laws and regulations.
- (11) Moratorium. The city shall, pursuant to applicable regulations issued by the Environmental Protection Agency, defer the date for collecting industrial cost recovery payments to December 1, 1979, or such later date as shall be authorized by law. During the period of deferral in industrial cost recovery payments, the superintendent shall implement and continue operations relating to industrial cost recovery payments as specified hereinabove, including monitoring flows, calculating payments due and submitting bills to industrial users informing them of their deferred obligations. Upon the end of the deferral, the superintendent shall bill for collection the deferred payments in equal annual installments prorated from July 1, 1979, over the remaining industrial cost recovery period.
- (12) Appeal. An industrial user may contest the accuracy of an industrial cost recovery bill by paying said bill under protest and within thirty (30) days following the due date of the bill lodging with the superintendent a notice of appeal to the wastewater regulations board. No particular form of notice of appeal is required, but it shall set forth with particularity the nature of any errors allegedly committed in the computation of said bill. Unless the superintendent shall agree to correct any error or enter into a reasonable

compromise concerning same, he shall notify the board at its next regularly scheduled meeting of the pendency of an appeal. The board shall, upon notice to the industrial users, schedule a hearing to receive evidence relating to the matter, and shall render such determinations and issue such orders as the law and facts of the case may require. (1977 Code, § 8-612)

- 18-513. <u>Miscellaneous fees</u>. (1) <u>Applicability</u>. There shall be and is hereby authorized the levy and collection of miscellaneous fees by the superintendent for various purposes relating to this chapter as set forth in this section.
- (2) <u>Fees for garbage grinders</u>. Any user of a garbage grinder, except users in a premises used exclusively for an individual residence, shall be charged at the rate of fifty dollars (\$50.00) per month. The superintendent shall bill said users on a bimonthly basis, and the bills shall be due and payable within thirty (30) days following the last day of the billing period.
- (3) Truck discharge operation fee. The superintendent shall charge and collect the sum of ten dollars (\$10.00) per truck per year for a truck discharge operation permit as authorized pursuant to section 18-502. The holders of such permits shall also be charged a fee set forth in subsections (4) and (5) of this section. Such additional fees shall be collected by the superintendent at the time of the discharge, or in his discretion he may enter into an agreement with the holder of such a permit to bill and collect the fees on a monthly basis.
- (4) <u>Fees for septic tank discharge</u>. All persons discharging domestic sewage waste from a truck under the provisions of section 18-502(10) shall be charged at the rate of six dollars (\$6.00) per one thousand (1,000) gallons of such waste.
- (5) <u>Holding tank wastes</u>. All persons discharging any other holding tank waste authorized pursuant to section 18-502 shall be charged at the rate of one dollar twenty and nine-tenths cents (\$1.209) per one thousand (1,000) gallons of such discharge, plus any surcharge rate authorized by section 18-511 for concentrations of pollutants in excess of normal wastewater without regard to the definition of industrial user or other limitations set forth in said section. The superintendent may also require a chemical analysis of such waste and charge the user therefor.
- (6) Monitoring requested by user. The superintendent shall charge and collect from any user requesting the collection of effluent samples and the analysis of same a sum of money sufficient to pay for the personnel, equipment and materials needed to collect and analyze same. He shall publish no less frequently than yearly a schedule of such fees, and shall charge all persons uniformly according to said schedule of charges. No such monitoring requested by user shall be performed unless the user shall agree in advance to payment of charges according to said schedule. The superintendent shall bill for such monitoring reports within one week following the completion thereof, said bills

to be payable within thirty (30) days following the date of the bill. The superintendent shall not perform for a user routine self-monitoring required under the provisions of an industrial discharge permit. (1977 Code, § 8-613)

# 18-514. Penalties for violations of chapter, permit conditions or order.

- (1) <u>Violation a misdemeanor</u>. Any person who violates any provision of this chapter, including but not limited to the following violations:
  - (a) Violates an effluent standard of limitation;
  - (b) Violates the terms or conditions of a wastewater discharge permit;
    - (c) Fails to complete a filing or report requirement;
    - (d) Fails to perform or properly report any required monitoring;
  - (e) Violates a final order or determination of the wastewater regulations board or the superintendent; or
  - (f) Fails to pay any established sewer service charge or industrial cost recovery charge; shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed fifty dollars (\$50.00).
- (2) <u>Violations deemed separate offenses</u>. Each separation violation shall constitute a separate offense and upon conviction, each day of violation shall constitute a separate offense.
- (3) <u>Civil penalties</u>. An industrial user of a publicly owned treatment works who violates the provisions of Section 69-3-115, <u>Tennessee Code Annotated</u>, is subject to a civil penalty of ten thousand dollars (\$10,000.00) per day for each day during which acts or omissions set forth therein continue or occur. (1977 Code, § 8-614)

## CHAPTER 6

### STORMWATER POLLUTION CONTROL

## SECTION

- 18-601. General provisions.
- 18-602. Definitions.
- 18-603. Best management practices (BMP) manual.
- 18-604. Land disturbance permits required.
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- 18-608. Existing locations and developments.
- 18-609. Illicit discharges.
- 18-610. Conflicting standards.
- 18-611. Program fees.
- 18-612. Penalties.
- 18-613. Appeals.
- 18-614. Implementation schedule.
- 18-615. Overlapping jurisdiction.
- 18-601. General provisions. (1) Program area. This chapter is applicable and uniformly enforceable within the Tennessee municipalities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Soddy-Daisy, designated unincorporated areas within Hamilton County, and other eligible communities which may join the Hamilton County Storm Water Control Program (hereinafter called the program) and enact the ordinance comprising this chapter from time to time. All such participating communities are hereinafter collectively identified as "the parties."
- agreement dated April 16, 2004, adopted by all of the parties pursuant to Tennessee Code Annotated, §§ 5-1-113 and 12-9-101. Said interlocal agreement specifies that the program shall be enforced by Hamilton County under applicable county rules pursuant to Tennessee Code Annotated, §§ 5-1-121 and 5-5-123. Applicable terms and provisions of said interlocal agreement and the Standard Operating Procedures for the Hamilton County Storm Water interlocal agreement, are hereby incorporated into and made a part of this chapter by reference and shall be as binding as if reprinted in full herein.
  - (3) <u>Purpose</u>. It is the purpose of this chapter to:
  - (a) Protect, maintain, and enhance the environment of the program service area and the health, safety, and general welfare of its citizens by controlling discharges of pollutants to the program's storm water system.

- (b) Maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water.
- (c) Enable the parties to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations (40 CFR §122.26) for storm water discharges. Compliance shall include the following six (6) minimum storm water pollution controls as defined by US EPA:
  - (i) Public education and outreach.
  - (ii) Public participation.
  - (iii) Illicit discharge detection and elimination.
  - (iv) Construction site runoff control for new development and redevelopment.
  - (v) Post-construction runoff control for new development and redevelopment.
  - (vi) Pollution prevention/good housekeeping for municipal operations.
- (d) Allow the parties to exercise the powers granted in <u>Tennessee Code Annotated</u>, § 68-221-1105, to:
  - (i) Exercise general regulation over the planning, location, construction, operation, and maintenance of storm water facilities in the municipalities, whether or not the facilities are owned and operated by the municipalities.
  - (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits.
  - (iii) Establish standards to regulate storm water contaminants as may be necessary to protect water quality.
  - (iv) Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments.
  - (v) Issue permits for storm water discharges or for the construction, alteration, extension, or repair of storm water facilities.
  - (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit.
  - (vii) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated. This regulation and prohibition shall be enforceable on facilities and operations which are in existence at the time of the initial adoption of the ordinance comprising this chapter or which may come into existence after the adoption of the ordinance comprising this chapter.

- (4) Goals of the program. The primary goals of the program are to:
  - (a) Raise public awareness of storm water issues.
  - (b) Generate public support for the program.
  - (c) Teach good storm water practices to the public.
- (d) Involve the public to provide an extension of the program's enforcement staff.
  - (e) Support public storm water pollution control initiatives.
  - (f) Increase public use of good storm water practices.
- (g) Detect and eliminate illicit discharges into the program service area.
  - (h) Reduce pollutants from construction sites.
- (i) Treat the "first flush" pollutant load to remove not less than seventy five percent (75%) total suspended solids (TSS).
  - (j) Remove oil and grit from industrial/commercial site runoff.
  - (k) Protect downstream channels from erosion.
  - (l) Encourage the design of developments that reduce runoff.
  - (m) Reduce or eliminate pollutants from municipal operations.
- (n) Provide a model for good storm water practices to the public through municipal operations impacting storm water (i.e., municipalities should "lead by example").
- Administering entity. The program staff shall administer the provisions of this chapter under the direction of the management committee. composed of representatives of the parties. The operating mechanism for the program is defined by an interlocal agreement among the parties and the standard operating procedures adopted by same. The management committee is authorized to enforce this chapter and to use its judgment in interpreting the various provisions of this chapter, the interlocal agreement, and the standard operating procedures to ensure that the program's goals are accomplished. If any management committee member is concerned about the appropriateness of any action of the committee, he should report his concerns to the county attorney, who shall review the situation and issue an opinion within ninety (90) calendar days. Should the county attorney find that the committee has, in his judgment, acted inappropriately, but a majority of the committee, after due deliberation, disagree with said finding, the committee shall bring the matter before the county commission for consideration. The determination of the county commission with regard to the issue shall be final. (as added by Ord. #622, Oct. 2005)
- 18-602. <u>Definitions</u>. (1) <u>Program-specific terminology</u>. As used herein certain words and abbreviations have specific meanings related to the program. The definition of some, but not necessarily all, such program-specific terms are, for the purposes of this chapter, to be interpreted as described hereinbelow:
  - (a) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other

management practices to prevent or reduce the pollution of storm water runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

- (b) "BMP manual" is a book of reference which includes additional policies, criteria, and information for the proper implementation of the requirements of the program.
- (c) "First flush" is defined as the initial storm water runoff from a contributing drainage area which carries the majority of the contributed pollutants.
- (d) "Hot spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.
- (e) "Land disturbance activity" means any land change which may result in increased soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including but not limited to clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include agricultural activities, exempted under the Clean Water Act, and certain other activities as identified in the program's BMP manual.
- (f) "Maintenance agreement" means a legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of storm water management practices.
- (g) "Management committee" is a group of people composed of one (1) representative of the county and one (1) representative of each of the cities participating in the program.
- (h) "Municipality" as used herein refers to Hamilton County, Tennessee, a county and political subdivision of the State of Tennessee; the Cities of Collegedale, East Ridge, Lakesite, Red Bank, Ridgeside, and Soddy-Daisy, Tennessee, and the Town of Lookout Mountain, Tennessee, all of which are chartered municipalities of the State of Tennessee; and/or any other participating governmental entity which may join the program in the future.
- (i) "Organization" means a corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.
  - (j) "Person" means an individual or organization.
- (k) "Program" refers to a comprehensive program to manage the quality of storm water discharged in or from the program area's municipal separate storm sewer system (MS4).

- (l) "Program cost" refers to any monetary cost incurred by the program in order to fulfill the responsibilities and duties assigned to the program under this chapter. Program costs specifically include costs incurred by any participating municipality for actions performed on behalf of or at the request of the program.
- (m) "Program service area" shall consist of the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated area of the county.
  - (n) "Program manager" See "Storm water manager."
- (o) "Program staff" is a group of people hired to assist the program manager in carrying out the duties of the program.
- (p) "Responsible party" means owners and/or occupants of property within the program area who are subject to penalty in case of default.
  - (q) "Runoff" See "Storm water runoff."
- (r) "Runoff quality objectives" refer to the "performance criteria for runoff management" adopted by the management committee in conformance with applicable provisions of § 18-605(5) hereinafter in accordance with the "goals of the program" as outlined under § 18-601(4) hereinbefore.
- (s) "Redevelopment" means any construction, alteration, or improvement exceeding one (1) acre in areas where existing land use is high density commercial, industrial, institutional, or multi-family residential.
- (t) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and discharge resulting from precipitation.
- (u) "Storm water manager" is the person selected by the management committee, assigned to the Office of the Hamilton County Engineer, and designated to supervise the operation of the program.
- (v) "Storm water runoff" means flow on the surface of the ground, resulting from precipitation. (as added by Ord. #622, Oct. 2005)
- 18-603. <u>Best management practices (BMP) manual.</u> Storm water design or <u>BMP manual</u> (1) The program will adopt a storm water design and best management practices (BMP) manual (hereafter referred to as the BMP manual), which is incorporated by reference in this chapter as if fully set out herein.
- (2) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and

<sup>&</sup>lt;sup>1</sup>The stormwater design or BMP manual is of record in the office of the city recorder.

expanded from time to time at the discretion of the management committee upon the recommendation of the program staff, based on improvements in engineering, science, and monitoring and local maintenance experience. Storm water facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards. (as added by Ord. #622, Oct. 2005)

- 18-604. <u>Land disturbance permits required</u>. (1) <u>Mandatory</u>. A land disturbance permit from the program will be required in the following cases:
  - (a) Land disturbing activity that disturbs one (1) or more acres of land;
  - (b) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.
  - (c) Land disturbing activity that disturbs less than one (1) acre of land if, in the discretion of the program staff, such activity poses a unique threat to the water environment or to public health or safety.
  - (2) <u>Application requirements</u>. (a) Unless specifically excluded by this chapter, any landowner or operator desiring a permit for a land disturbance activity shall submit to the program staff a permit application on a form provided by the program.
    - (b) A permit application must be accompanied by the following:
    - (i) A sediment and erosion control plan which addresses the requirements of the BMP manual and
    - (ii) A nonrefundable land disturbance permit fee as described in Appendix A to this chapter.
  - (c) The land disturbance permit application fee shall be as established for the program under the provisions of the standard operating procedures.
- (3) <u>General requirements</u>. All land disturbing activities undertaken within the program service area shall be conducted in a manner that controls the release of sediments and other pollutants to the storm water collection and transportation system in accordance with the requirements of the program's BMP manual.
  - (4) Review and approval of application. (a) The program staff will review each application for a land disturbance permit to determine its conformance with the provisions of this chapter. The program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default. No development shall commence

until the land disturbance permit has been approved by the program staff or until the time limit allowed for review has expired.

- (b) Each land disturbance permit shall be issued for a specific project and shall expire twelve (12) months after its issuance. The applicant is solely responsible for the renewal of a permit if work is to continue after the expiration of the permit. Renewal will require payment of an additional land disturbance permit fee.
- (5) <u>Transfer of a permit</u>. Land disturbance permits are transferable from the initial applicant to another party. A notice of transfer, on a form acceptable to the program and signed by both parties, shall be filed with the program staff. Such transfer shall not automatically extend the life of the existing permit or in any other way alter the provisions of the existing permit. (as added by Ord. #622, Oct. 2005)
- 18-605. <u>Runoff management permits</u>. (1) <u>Mandatory</u>. A runoff management permit will be required in the following cases:
  - (a) Development, redevelopment, and/or land disturbing activity that disturbs one (1) or more acres of land;
  - (b) Development, redevelopment, and/or land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.
- (2) <u>Runoff management</u>. Site requirements, as fully described in the BMP manual, shall include the following items:
  - (a) Record drawings;
  - (b) Implementation of landscaping and stabilization requirements;
    - (c) Inspection of runoff management facilities;
  - (d) Maintenance of records of installation and maintenance activities; and
  - (e) Identification of person responsible for operation of maintenance of runoff management facilities.
  - (3) <u>Application requirements</u>. (a) Unless specifically excluded by this chapter, any landowner or operator desiring a runoff management permit for a development, redevelopment, and/or land disturbance activity shall submit a permit application on a form provided by the program.
    - (b) A permit application must be accompanied by:
    - (i) Storm water management plan which addresses specific items as described in the BMP manual;
    - (ii) Maintenance agreement for any pollution control facilities included in the plan; and
    - (iii) Nonrefundable runoff management permit fee as described in Appendix A to this chapter.

- (c) The application fees for the runoff management permit shall be as established by the program under the provisions of the standard operating procedures.
- (4) <u>Building permit</u>. No building permit shall be issued by a participating municipality until a runoff management permit, where the same is required by this chapter, has been obtained.
- (5) <u>General performance criteria for runoff management</u>. Unless a waiver is granted or exempt certification is issued, all sites, including those exempted under § 18-605(7) below are required to satisfy the following criteria as specified in the BMP manual (whether permitted or not):
  - (a) Through the selection, design, and maintenance of temporary and permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter storm water.
  - (b) Protect the downstream water environment from degradation including specific channel protection criteria and the control of the peak flow rates of storm water discharge associated with design storms shall be as prescribed in the BMP manual.
  - (c) Implement additional performance criteria or utilize certain storm water management practices to enhance storm water discharges to critical areas with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).
  - (d) Implement specific storm water treatment practices (STP) and pollution prevention practices for storm water discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."
  - (e) Prepare and implement a storm water pollution prevention plan (SWPPP) and file a notice of intent (NOI) under the provisions of the NPDES general permit for certain industrial sites which are required to comply with NPDES requirements. The SWPPP requirement applies to both existing and new industrial sites. The owner or developer shall obtain the general permit and shall submit copies to the storm water manager.
  - (f) Prior to or during the site design process, consult with the program staff to determine if a planned development is subject to additional storm water design requirements.
  - (g) Use the calculation procedures as found in the BMP manual for determining peak flows to use in sizing all storm water facilities.
  - (6) Review and approval of application. (a) The program staff will review each application for a runoff management permit to determine its conformance with the provisions of this chapter. The program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent

submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default.

- (b) No development shall commence until the runoff management permit has been approved by the program staff or until the time limit allowed for review has expired.
- (7) <u>Waivers</u>. (a) General. Every applicant shall provide for storm water management; unless a written request to waive this requirement is filed with and approved by the program.
- (b) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the management committee that the waiver will not lead to any of the following conditions downstream:
  - (i) Deterioration of existing culverts, bridges, dams, and other structures:
    - (ii) Degradation of biological functions or habitat;
  - (iii) Accelerated streambank or streambed erosion or siltation:
  - (iv) Increased threat of flood damage to public health, life, or property.
- Runoff management permit not to be issued where waiver granted. No runoff management permit shall be issued where a waiver has been granted pursuant to this section. If no waiver is granted, the plans must be resubmitted with a runoff management plan. All waivers must be adopted by a majority of the management committee meeting in open session pursuant to the program's standard operating procedures. The applicant shall prepare an agreement which shall formalize the applicant's commitment to implement all actions proposed by the applicant and relied on by the management committee in granting the waiver. Said agreement, once determined to be acceptable to the management committee, shall be executed by an authorized representative of the applicant and the chairman of the management The executed agreement shall form a binding contract between the applicant and the program, and the terms of said contract shall be fully enforceable by the program staff. The program staff's authority to enforce the terms of the waiver agreement shall be identical to those typically exercised by the staff with regard to the implementation of runoff management plans. No construction activities shall commence at a site covered by a waiver until the waiver agreement is fully executed. (as added by Ord. #622, Oct. 2005)
- 18-606. Non-storm water discharge permits. (1) Commercial and industrial facilities. Commercial and industrial facilities located within the program service area may in certain situations be allowed to discharge

nonpolluting non-storm water into the storm water collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-storm water discharges may be released without a permit. A listing of such allowed discharges in included in § 18-609 which follows. Except for these discharges, a permit for all nonpolluting non-storm water discharges shall be required in addition to any permits required by the State of Tennessee for storm water discharges associated with industrial or construction activity.

- (2) <u>New facilities</u>. The permit application for a new facility requesting non-storm water discharges shall include the following:
  - (a) If the facilities are to be covered under the TDEC general NPDES permit for storm water discharges associated with industrial activity, a general NPDES permit for storm water discharges associated with construction activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the NOI and shall submit copies to the program.
  - (b) Any application for the issuance of a non-storm water discharge under this article shall include the specific items listed in the program's BMP manual.
  - (c) Each application for a non-storm water discharge permit shall be accompanied by payment of a non-storm water discharge permit fee as described in Appendix A to this chapter. Said fee shall be established under the provisions of the standard operating procedures for the program.
- (3) Review and approval of application. The program staff will review each application for a non-storm water discharge permit to determine its conformance with the provisions of this chapter. Within thirty (30) calendar days after receiving an application, the program staff shall provide one (1) of the following responses in writing:
  - (a) Approval of the permit application;
  - (b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issuance of the permit subject to these conditions; or
  - (c) Denial of the permit application, indicating the reason(s) for the denial.
- (4) <u>Permit duration</u>. Every non-storm water discharge permit shall expire within three (3) years of issuance subject to immediate revocation if it is determined that the permittee has violated any of the terms of the permit or if applicable regulations are revised to no longer allow the specific non-storm water discharge covered by the permit. (as added by Ord. #622, Oct. 2005)

#### 18-607. Program remedies for permittee's failure to perform.

- (1) <u>Failure to properly install or maintain sediment and erosion control</u> <u>measures</u>. (a) If a responsible party fails to properly install or maintain sediment and/or erosion control measures as shown on a sediment and erosion control plan used to secure a land disturbance permit under the program, the program staff is authorized to act to correct the deficiency or deficiencies.
  - (b) The program manager is hereby authorized to issue a "stop work order" to the responsible party in any situation where the program manager believes that continued work at a site will result in an increased risk to the public safety or welfare or the downstream water environment. Upon receipt of such a "stop work order," the responsible party shall immediately cease all operations at the site except those specifically directed toward correcting the deficiency or deficiencies in the sediment and/or erosion control measures.
  - (c) Where the deficiency or deficiencies described hereinbefore do not, in the opinion of the storm water manager, pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff shall notify in writing the responsible party of the deficiency or deficiencies. The responsible party shall then have forty-eight (48) hours to correct the deficiency or deficiencies, unless exigent or other unusual circumstances dictate a longer time. In the event that corrective action is not completed within that time, the program staff may take necessary corrective action.
  - (d) Where, in the opinion of the storm water manager, the deficiency or deficiencies described hereinbefore do pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff may immediately act to correct the deficiency or deficiencies by performing or having a third party perform all work necessary to restore the proper function of the sediment and erosion control system. The responsible party will be informed, in writing, as to the actions of the program staff as soon as practicable following implementation of the corrective action. The program staff may request assistance from the staff of any community participating in the program to perform the "third party" corrective work described in this paragraph.
  - (e) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to properly install and/or maintain sediment and erosion control measures in accordance with a land disturbance permit may subject the responsible party to a civil penalty from the program as described in a subsequent section of this chapter.
  - (2) Failure to meet or maintain design or maintenance standards for runoff management facilities. (a) If a responsible party fails or refuses to meet the design or maintenance standards required for runoff management facilities under this chapter, the program staff, after reasonable notice, may correct a violation of the design standards or

maintenance needs by performing all necessary work to place the facility in proper working condition.

- (b) In the event that the runoff management facility is determined to be improperly operated or maintained, the program staff shall notify in writing the party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the responsible party shall have fourteen (14) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the program staff may take necessary corrective action.
- (c) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to meet the design or maintenance standards of an approved runoff management plan may subject the responsible party to a civil penalty from the program as described in a subsequent section of this chapter. (as added by Ord. #622, Oct. 2005)
- 18-608. Existing locations and development. (1) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of the ordinance comprising this chapter are described in the BMP manual.
- <u>Inspection of existing facilities</u>. The program may, to the extent (2)authorized by state and federal law, establish inspection programs to verify that all storm water management facilities, including those built both before and after the adoption of the ordinance comprising this chapter, are functioning within design limits as established within the program BMP manual. These inspection programs may include but are not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
  - (3) Requirements for existing problem locations. (a) The program shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from such locations and developments and the specific actions required to correct those problems.

- (b) The notice shall also specify a reasonable time for compliance.
- (c) Should the property owner fail to act within the time established for compliance, the program may act directly to implement the required corrective actions.
- (d) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the program as described in a subsequent section of this chapter.
- (4) <u>Corrections of problems subject to appeal</u>. Corrective measures imposed by the storm water utility under this section are subject to appeal under § 18-613 of this chapter. (as added by Ord. #622, Oct. 2005)
- 18-609. <u>Illicit discharges</u>. (1) <u>Scope</u>. This section shall apply to all water generated on developed or undeveloped land entering any separate storm sewer system within the program service area.
- (2) <u>Prohibition of illicit discharges</u>. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water except as permitted under § 18-606 of this chapter or allowed as described below. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited except as described as follows:
  - (a) Uncontaminated discharges from the following sources:
    - (i) Water line flushing
    - (ii) Landscape irrigation
    - (iii) Diverted stream flows
    - (iv) Rising ground water
  - (v) Uncontaminated ground water entering the storm water collection system as infiltration. (Infiltration is defined as water, other than wastewater, that enters the storm sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
  - (vi) Pumped ground water determined by analysis to be uncontaminated
    - (vii) Discharges from potable water sources
    - (viii) Foundation drains
    - (ix) Air conditioning condensate
    - (x) Irrigation water
    - (xi) Springs

- (xii) Water from crawl space pumps
- (xiii) Footing drains
- (xiv) Lawn watering
- (xv) Individual residential car washing
- (xvi) Flows from riparian habitats and wetlands
- (xvii) Dechlorinated swimming pool discharges
- (xviii) Street washwater.
- (b) Discharges specified in writing by the program as being necessary to protect public health and safety.
  - (c) Dye testing, if the program has so specified in writing.
- (3) <u>Prohibition of illicit connections</u>. (a) The construction, use, maintenance, or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) Reduction of storm water pollutants by the use of BMPs. Any person or party responsible for the source of an illicit discharge may be required to implement, at the person's or party's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- <u>Notification of spills</u>. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information on any known or suspected release which has resulted, or may result, in illicit discharges of non-allowed pollutants into the storm water conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event that such a release involves hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the program staff in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the program staff within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

- (6) <u>Enforcement</u>. (a) Enforcement authority. The storm water manager or his designees shall have the authority to issue notices of violation and citations and to impose the civil penalties provided in this section.
  - (b) Notification of violation. (i) Written notice. Whenever the storm water manager finds that any permittee or any other person discharging non-storm water has violated or is violating this chapter or a permit or order issued hereunder, the storm water manager may serve upon such person written notice of the A copy of any such notice shall be sent to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. Within ten (10) days of this notice, an explanation of the violation and a plan for the correction and prevention thereof, to include specific required actions, shall be prepared by the discharger and submitted to the storm water manager. Submission of this plan and/or acceptance of the plan by the program staff in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
  - (ii) Consent orders. The storm water manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (iv) and (v) below.
  - (iii) Show cause hearing. The storm water manager may order any person who violates this chapter or permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
  - (iv) Compliance order. When the storm water manager finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures and devices be installed or procedures

implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

- (v) Cease and desist orders. When the storm water manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the storm water manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
  - (A) Comply forthwith; or
  - (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
  - (c) Civil penalties. (i) Assessment of penalties. In addition to the authority granted to the storm water manager in the preceding paragraphs to address illicit discharge violations, the storm water manager may, in accordance with the provisions of § 18-612 of this chapter, impose a civil penalty on the party responsible for an illicit discharge.
- (ii) Appeals. All penalties assessed under this section may be appealed in accordance with the provisions of § 18-613 of this chapter. (as added by Ord. #622, Oct. 2005)
- 18-610. <u>Conflicting standards</u>. Whenever there is a conflict between any standard contained in this chapter, any BMP manual adopted by the program under this chapter, or any applicable state or federal regulation, the strictest standard shall prevail. (as added by Ord. #622, Oct. 2005)
- **18-611.** <u>Program fees</u>. (1) <u>Annual program fees</u>. The program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial storm water dischargers located within the program service area.
  - (a) Initial annual program fees:
  - (i) Residential properties. A single residential annual fee of eight dollars and fifty cents (\$8.50) shall be adopted initially for all households in the program service area. Property used for agricultural or residential purposes and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual program fee as described above. Multi-family residential complexes shall be charged one residential annual program fee for

each unit in the complex regardless of the actual occupancy of a given unit. Manufactured home parks and developments shall be charged one (1) residential annual program fee for each space in the development regardless of the actual occupancy of a given space.

- (ii) Commercial and industrial properties. Property used for commercial or industrial purposes within the program service area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of one hundred seven dollars (\$107.00) per impervious acre of development on the property but not less than the annual residential program fee.
- (iii) Governmental, institutional, other tax-exempt properties, and properties exempted by statute or action of the management committee shall not be charged an annual program fee.
- (b) Annual fee revision procedures. The annual program fee shall only be changed through the following multi-step procedure:
  - (i) During the first quarter of each calendar year, the storm water manager shall perform a review of the program's financial condition, including an estimate of probable income and expenses for the upcoming year. Should the annual review indicate that the program will experience a significant budget imbalance in the coming year, the storm water manager shall present to the management committee a request to revise the annual fee structure to correct the imbalance.
  - (ii) The management committee shall, at the next meeting following the receipt of the storm water manager's recommendation, examine the annual financial review and the storm water manager's recommendation for the adjustment in the annual fees. If no regular meeting of the management committee is scheduled within thirty (30) calendar days of the issuance of the storm water manager's recommendation, the chair of the committee shall call a special meeting. The management committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are supported by three-fourths (3/4) of the members of the management committee.
  - (iii) Once the management committee adopts an annual fee revision recommendation, the storm water manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The storm water manager shall submit the draft resolution for consideration at an upcoming meeting of the county commission, as allowed by the

rules and procedures of the county commission. The county commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the program's financial situation, subject to the limitations described in the interlocal agreement establishing the program. The action of the county commission shall be final.

- (c) Annual fee incorporation in municipal storm water fee. Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual storm water fee within its own jurisdictional boundaries which is higher than the program's annual fee. The program's annual fee shall be incorporated in the municipality's annual fee. The municipality may collect and utilize the excess funds derived from a higher annual storm water fee to address storm water issues within its boundaries as the municipality judges to be in its own best interest.
- (d) Collection of delinquent annual fee payments. When any owner of any property subject to the annual program fee, fails to pay the annual program fee on or before the date when such program fee is required to be paid, interest and penalty shall be added to the amount of the program fee due, at the same rate and in the same amount as that set by state law for delinquent property tax<sup>1</sup>. Should the owner of any property subject to the annual program fee fail to remit payment for said fee within the time period adopted by the management committee for such payments, the program is authorized to take any and all actions which the management committee deems appropriate to try to collect the delinquent fee.
- (2) Special program fees. The program shall be allowed to charge special program fees to individuals and organizations for specific activities which require input from the program staff. Because of the service-related nature of the special program fees, they shall be applicable to all storm water dischargers located within the program service area, including dischargers who may be exempt from the annual program fee. Special program fees shall comply with the following provisions:
  - (a) Types: Special program fees may be charged for the following types of services:
    - (i) Development plans review. Any person or organization with planned construction that will disturb one (1) acre or more shall submit development plans to the program staff which describe in detail the planned construction's conformance

<sup>&</sup>lt;sup>1</sup>State law reference <u>Tennessee Code Annotated</u>, § 67-1-801

- with program requirements for storm water pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.
- (ii) Erosion control plans review. Any person or organization with planned construction that will disturb one (1) acre or more shall submit erosion control plans to the program staff which describe in detail the planned construction's conformance with program requirements for erosion control at construction sites. It is understood that the erosion control plans review fee shall include on-site inspections by qualified member(s) of the program staff of the installed erosion control measures as defined by the approved erosion control plans.
- (iii) Erosion control non-compliance re-inspection. Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the program shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.
- Non-storm (iv) water discharge permit Commercial and industrial facilities located within the program service area may be allowed to discharge non-polluting wastewater into the storm water collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the program staff and renewed annually. Fees charged by the program for such non-storm water discharge permits will include the costs of the periodic sampling and testing of the discharge, determination of the amount of the discharge, and any costs associated with reviewing and issuing the permit and maintaining necessary records pertaining to the permit.
- (v) Residential development retention/detention basin lifetime operation and maintenance fee. The ownership of the property containing a dry detention basin constructed as a part of an approved runoff management plan for a residential development composed of multiple, individually owned lots shall be permanently transferred to Hamilton County, Tennessee, in accordance with the property transfer procedures of the county. In

addition, the developer of the residential development shall pay a lifetime operation and maintenance fee to the program for each retention/detention basin. All such fees received by the program shall be deposited in an investment account and the earnings of the account shall be used to pay for the maintenance, repair, and operation of the retention/detention basins transferred to the ownership of the county.

- (vi) Other. The management committee may from time to time identify other specific activities which warrant a special program fee. No such fee shall be enacted unless it is endorsed by the county mayor and approved by the county commission. Procedures for establishing a special program fee other than those identified above shall generally comply with the procedures for making revisions to the annual program fee as described in the preceding section.
- (b) Initial special program fees: The initial amounts of the various special program fees shall be as noted in Appendix A to this chapter.
- (c) Special program fee revision procedures: Special program fees shall be changed only through the following multi-step procedure:
  - (i) The storm water manager shall review the special program fees during the annual program financial review required under the "annual fee revision procedures" described in a previous section. The storm water manager shall determine the financial viability of each special program fee and present to the management committee requests for revision of those fees, if any, which the storm water manager believes should be adjusted.
  - (ii) Once the storm water manager has submitted his or her recommendations, revisions of the special program fees shall comply with the procedures for management committee review and county commission action identified under the "annual fee revision procedures" described hereinbefore. (as added by Ord. #622, Oct. 2005)
- 18-612. <u>Penalties</u>. (1) <u>Violations</u>. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action required by the program, shall be guilty of a civil offense.
- (2) <u>Penalties</u>. Under the authority provided in <u>Tennessee Code Annotated</u>, § 68-221-1106, the program declares that any person violating the provisions of this chapter may be assessed a civil penalty by the program of not less than fifty dollars (\$50.00) and not more than five thousand dollars

- (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Applicable penalties for some specific violations are outlined in the enforcement protocol described in Appendix B of this chapter.
- (3) <u>Measuring civil penalties</u>. In assessing a civil penalty, the storm water manager may consider:
  - (a) The harm done to the public health or the environment;
  - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
    - (c) The economic benefit gained by the violator;
  - (d) The amount of effort put forth by the violator to remedy this violation:
  - (e) Any unusual or extraordinary remedial or enforcement costs incurred by the program or any participating municipality;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) <u>Recovery of damages and costs</u>. In addition to the civil penalty in subsection (2) above, the program may recover:
  - (a) All damages proximately caused by the violator, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with this chapter, or any other actual damages caused by the violation.
  - (b) The costs of maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this chapter.
- (5) Other remedies. The program or any participating municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #622, Oct. 2005)
- 18-613. Appeals. All actions of the program staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the management committee. Appealable staff actions specifically include the assessment of civil penalties. Following receipt of a written "notice of appeal" from an appellant, the appeals process shall function as follows:
- (1) <u>Administrative review</u>. An administrative review of all appeals and/or requests for review shall initially be conducted by the storm water manager. The storm water manager shall review the record of the situation and, if the storm water manager is not satisfied that both of the following

conditions have been met, the storm water manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the storm water manager, sought by the appellant:

- (a) The matter under dispute has been handled correctly by the program staff under the applicable rules and procedures of the program.
- (b) The matter under dispute has been handled fairly by the program staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the storm water manager determines that both items (a) and (b) immediately above have been satisfied, the storm water manager shall notify the appellant in writing that no relief can be granted at the program staff level and that the appellant is free to pursue the appeal with the management committee. Such notification shall include instructions as to the proper procedure for bringing the matter before the committee. Notification shall be made by hand-delivery; verifiable facsimile transmission; or certified mail, return receipt requested. A copy of the notification shall be provided to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. The storm water manager shall complete the review and issue an opinion within twenty (20) calendar days of the receipt of the appeal.

- (2) Committee hearing. Appeals rejected by the storm water manager, in accordance with the procedure outlined immediately above, may be brought before the management committee. Within thirty (30) calendar days of receipt of a notification of an appeal, the committee shall determine if the appeal is to be heard by the committee as a whole, if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the management committee at which the special subcommittee is appointed shall name a chair and vice chair for said subcommittee. Once the appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within fifteen (15) calendar days following the date of the management committee's initial considerations regarding the appeal.
- (3) <u>Hearing procedures</u>. Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The storm water manager or his designee shall first brief the committee or subcommittee on the history of the situation, including the actions of the program staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The storm water manager or his designee shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such

deliberations, the members may ask questions of and/or seek additional input from the appellant or the program staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal or to adopt a modified position regarding the matter in question. The outcome of this vote shall be considered the final action of the program with regard to the appeal. The chair of the committee or subcommittee hearing the appeal shall prepare a written order reflecting the committee's or subcommittee's determination regarding the appeal. A tape recording, minutes, or other record of the hearing shall be made and maintained by the program staff.

- (4) <u>Appealing decisions of the management committee</u>. Any appellant dissatisfied with the decision of the management committee, as described in the preceding paragraph, may appeal the management committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County. (as added by Ord. #622, Oct. 2005)
- 18-614. <u>Implementation schedule</u>. (1) <u>Discharge permit</u>. The program is authorized under National Pollutant Discharge Elimination System (NPDES) Permit No. TNS075566 issued by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control, which expires February 26, 2008. It is anticipated that subsequent permits will be issued to the program under the same permitting authority. All applicable provisions of the current or any subsequent permit shall be enforceable by the program as if fully spelled out herein. Implementation of certain aspects of the program shall comply with the specific schedule included in the permit.
  - (2) Implementation schedule.

<u>Description</u> Prohibition of illicit discharges (§ 18-609)	Effective date January 1, 2006
Prohibition of the release of sediments and erosion products from a land disturbance site (§ 18-604(3))	January 1, 2006
Implementation of the land disturbance permit program (§ 18-604)	January 1, 2008
Implementation of the runoff management permit program (§ 18-605)	January 1, 2008
Implementation of the non-storm water discharge permit program (§ 18-606) (as added by Ord. #622, Oct. 2005)	January 1, 2008

18-615. Overlapping jurisdiction. The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal regulations to address storm water pollution issues in ways which appear to overlap the goals and requirements of the program described by this chapter. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control.

A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this chapter. (as added by Ord. #622, Oct. 2005)

# APPENDIX A SPECIAL PROGRAM FEES

- 1. Each application for a Land Disturbance Permit shall be accompanied by a minimum nonrefundable fee of \$100 plus an additional \$5 per each additional disturbed acre, or part thereof, in excess of one (1) acre.
- 2. Each application for a Runoff Management Permit shall be accompanied by a minimum nonrefundable fee of \$100 plus an additional \$5 per each additional disturbed acre, or part thereof, in excess of one (1) acre.
- 3. If an inspector returns to a specific site out of the normal inspection sequence, an Erosion Control Non-Compliance Re-inspection Fee of \$50 will be assessed for each inspection visit prompted by erosion control measures found to be out of compliance with permit requirements.
- 4. Each application for a Non-Storm Water Discharge Permit shall be accompanied by a minimum nonrefundable fee of \$150 per facility.
- 5. Residential developments containing a common retention/detention facility shall be charged a Lifetime Operation and Maintenance Fee based on total pond volume computed from the design water level associated with a 25-year storm event:
  - a. Dry detention basin: \$2,500 per acre-foot of pond volume.
  - b. Retention (wet)/detention basin: \$5,000 per acre-foot of pond volume. Under this fee neither Hamilton County nor the Program accepts responsibility for the upkeep, maintenance, and/or operation of basin amenities such as retaining walls, shoreline treatments, walkways, boardwalks, docks, fountains, mechanical aeration devices, lighting, and other aesthetic enhancements. Provisions for the maintenance and operation of such amenities must be included in the facility's Runoff Management Plan. (as added by Ord. #622, Oct. 2005)

# APPENDIX B STORM WATER MANAGEMENT ENFORCEMENT PROTOCOL

The following protocol shall be employed in enforcement of this ordinance, subject to the authority of the Management Committee to make reasonable adjustments to the civil penalties mandated hereinafter to reflect the specifics of each enforcement action.

At any time, a show cause hearing may be ordered if this protocol is unclear or inadequate to address specific violations of the ordinance. This protocol does not in any way deter the Storm Water Manager from entering into a consent order to eliminate illicit discharges in lieu of other enforcement actions.

This protocol may be adjusted and amended from time to time by action of the Management Committee and approval by the Hamilton County Commission.

- 1. Land Disturbing Activities Without Obtaining Necessary Land Disturbing Permit
  - (a) <u>First Offense (Property Owner and Contractor)</u> Cease and desist order; notice of violation; obtain required permit including payment of associated fee; civil penalty equal to cost of permit.
  - (b) <u>Second Offense (Property Owner and Contractor)</u> Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of \$500.00 plus damages consisting of cost of permit and costs to the Program associated with the enforcement of article.
  - (c) <u>Each Additional Offense (Property Owner and Contractor)</u> Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of \$1,000.00 plus damages consisting of cost of permit and three times the costs to the Program associated with the enforcement of article.
  - (d) <u>Failure to Properly Transfer Land Disturbing Permit</u> Cost of new permit.
  - (e) <u>Failure to Request Extension of Permit</u> Cost of new permit.
  - Note: Enforcement under this guidance is contractor- and property owner-specific, not site-specific. For instance, if Contractor A receives a notice of violation for a first offense, a civil penalty is to be issued against Contractor A for the second offense occurring within three (3) years of the previous notice of an offense, regardless of the property owner or location.

- 2. Failure to Comply with Required Sediment and Erosion Control Procedures (These protocols are enforceable on all land disturbance sites, including sites which are not required to obtain a Land Disturbance Permit).
  - (a) Failure to Install, Maintain, or Use Proper Construction Entrance (Tracking Mud on Street)
    - (1) <u>First Offense</u> Notice of violation issued to permit applicant (or responsible party, if no permit is required) including a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.
    - (2) Second Offense Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of \$100.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.
    - (3)Each Additional Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of \$250.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to Costs for such removal by the Program, including any costs sustained by the affected municipality, will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager. The Program Manager may, at his discretion, issue a cease and desist order to the project effective until the deficiencies with the construction entrance are rectified.

- Note: Failure to Act as Directed Failure of the permit applicant (or responsible party, if no permit is required) to remove any mud, debris, or construction material that is deposited in a public roadway, within the time period specified in the directive included in the notice of violation, will lead to an additional civil penalty of \$250.00 per incident plus three times the cost of the Program's expenses to have the material removed to protect the safety of the public.
- (b) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls During the Conduct of a Land Disturbance Activity (Sediment Discharge)
  - First Offense Notice of violation issued to permit applicant (1) (or responsible party, if no permit required). Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to the responsible party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.
  - (2)Second Offense - Notice of Violation issued to land disturbing permit applicant (or responsible party, if no permit is required); "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Formerly permit-exempt projects will be required to obtain land disturbing permit. Violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to

- any party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.
- (3)Each Additional Offense - Issuance of civil penalty of \$500.00 per discharge point per discharge to permit applicant; notice of violation issued to land disturbing permit applicant; "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments and/or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to any party. Costs for such actions by the Program will be assessed against the permit applicant.

Note: Failure to Act as Directed - Failure of the permit applicant or responsible party (if no permit is required) to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of \$250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

- (c) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls Following Completion of a Land Disturbance Activity (Sediment Discharge)
  - (1) Site Requiring a Land Disturbance Permit Issuance against property owner of notice of violation for the release of unacceptable amounts of sediments from the site following the submission to the Program of a "Notice of Termination" of temporary site erosion and sediment controls. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures and conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program

Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

(2)Site Not Requiring a Land Disturbance Permit - Issuance of notice of violation requiring the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment. the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

Note: <u>Failure to Act as Directed</u> - Failure of the property owner to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of \$250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

- 3. Failure to Comply with Approved Runoff Management Plan
  - (a) <u>Upon Discovery of Variation with Approved Plan</u> Written notification to the permit applicant that construction does not match approved plans and that if modifications are to be accepted, revised plans must be submitted for review and approval. Submittal of revised plans shall require payment of an additional permit review fee.
  - (b) <u>Failure to Conform with Approved Plan</u> Program Inspectors shall not authorize issuance of a "Certificate of Occupancy" or "Final Plat Approval" until runoff management measures complying with an approved plan are fully operational.
- 4. Failure to Satisfy Minimum Runoff Quality Objectives (Permitted and/or Previously Occupied Sites)

- (a) <u>Upon Discovery of Runoff Quality Violation</u> A notice of violation and compliance order shall be issued to the property owner giving a minimum of 14 calendar days up to a maximum of 60 calendar days, at the discretion of the Program Manager, to submit a remedial Runoff Management Plan describing the measures proposed to bring the site into compliance with runoff quality objectives. Conformance with a previously approved Runoff Management Plan shall not relieve a site from the requirement to meet runoff quality objectives. Submittal of the remedial plan shall require payment of a permit review fee.
- (b) Resubmittal of Remedial Runoff Management Plans The remedial plan may be rejected or contingently approved with additions, deletions, and/or revisions mandated by the Program staff. The property owner shall have 14 calendar days to revise and resubmit a rejected or contingently approved remedial plan. Failure to resubmit an acceptable plan within this time limit shall constitute a violation of the compliance order.
- (c) Upon Approval of the Remedial Runoff Management Plan Concurrently with the approval of a remedial Runoff Management Plan, a compliance order shall be issued to the property owner giving a maximum of 120 calendar days to install the improvements required to bring the site into compliance with runoff quality objectives. If the Program Manager determines that the site poses an imminent threat to the water environment, the time allowed in the compliance order to install the runoff management measures will be reduced, but said time limit shall not be less than 14 calendar days.
- Note: Failure to Meet Compliance Order Dates Issuance of civil penalty against the property owner of \$100.00 per day for each day compliance directives are not met. Should the compliance date be exceeded by more than 60 calendar days, the Program Manager may increase the civil penalty to \$1,000.00 per day for each day compliance directives are not met. After 120 calendar days, the Program Manager may increase the civil penalty to \$5,000.00 per day for each day compliance directives are not met.
- 5. Failure to Properly Operate and/or Maintain a Storm Water Retention/Detention Basin Constructed as Part of an Accepted Runoff Management Plan
  - (a) Notice of Violation and Compliance Order A notice of violation and compliance order shall be issued to the property owner giving a maximum of 30 days to restore a retention/detention basin to an acceptable level of maintenance and/or effective operation.

- (b) Failure to Meet Compliance Order Date Issuance of a civil penalty against the property owner of \$1,000.00 per occurrence for each day during which storm water is discharged from the retention/detention basin between the expiration of the restoration period allowed by the compliance order and the date of completion of the restoration of the retention/detention basin as determined by the Program Manager.
- 6. Illicit Discharges (Non-residential, Non-accidental)
  - (a) <u>First Offense</u> Notice of violation issued to responsible party for non-storm water discharge. A copy of the notice of violation will be sent to the Tennessee Department of Environment and Conservation (TDEC) for separate civil and/or criminal enforcement action.
  - (b) Second Offense Issuance of notice of violation and civil penalty against responsible party of \$1,000.00. A copy of the notice of violation will be sent to the TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.
  - (c) <u>Each Additional Offense</u> Issuance of notice of violation and civil penalty against responsible party of \$2,500.00. A copy of the notice of violation will be sent to TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.
  - (d) <u>Additional Damages</u> Additional damages consisting of Program expenses to clean up illicit discharge will be passed on to violator starting with the first offense. Additional damages may include other items such as the costs avoided by not properly using the sanitary sewer system or other disposal method.
- 7. Illicit Discharges (Non-residential, Accidental)
  - (a) Accidental Illicit Discharges An accidental illicit discharge, properly reported as such to the Program not later than 4:00 p.m. of the business day immediately following the incident, will not subject to enforcement as an illicit discharge. However, the responsible party may be held liable for clean-up costs and other damages to the Program. Failure to report an accidental discharge as described above shall subject such discharge to the enforcement actions described hereinbefore for non-accidental illicit discharges. The Program staff will notify TDEC of all reported accidental discharges.

- 8. Illicit Discharges (Residential Other than Wastewater Discharge)
  - (a) <u>Each Offense</u> Enforcement action based on individual action. Examples: Deliberate dumping of pesticide, used motor oil, or other hazardous or dangerous chemical into storm drainage system would result in issuance of civil penalty including damages. The amount of the assessed civil penalty shall be not less than \$50.00 or more than \$500.00 as determined by the Program Manager. The Program staff will notify TDEC of all illicit discharges. (as added by Ord. #622, Oct. 2005)

### TITLE 19

# **ELECTRICITY AND GAS**

# **CHAPTER**

- 1. ELECTRICITY.
- 2. GAS.

# CHAPTER 1

# ELECTRICITY<sup>1</sup>

#### **SECTION**

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished, for the city and its inhabitants under such franchise as the board of commissioners shall grant. The rights, powers, duties, and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1977 Code, § 13-301)

<sup>1</sup>Municipal code references Electrical code: title 12.

Fire code: title 7.

### CHAPTER 2

# $GAS^1$

# **SECTION**

19-201. To be furnished under franchise.

19-201. To be furnished under franchise. Gas service shall be furnished for the city and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the city, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1977 Code, § 13-401)

<sup>&</sup>lt;sup>1</sup>Municipal code reference Plumbing and gas codes: title 4.

#### TITLE 20

# **MISCELLANEOUS**

### CHAPTER

- 1. TELEPHONE SERVICE.
- 2. TITLE VI COMPLIANCE MANUAL.
- 3. OFFICE OF ADMINISTRATIVE HEARING OFFICER.

#### CHAPTER 1

# TELEPHONE SERVICE<sup>1</sup>

### **SECTION**

20-101. Franchise for telephone lines.

20-101. <u>Franchise for telephone lines</u>. The City of Collegedale grants a franchise for a telephone system to be established within the corporate limits for the purpose of erecting, constructing, maintaining and operating lines for telephone service. (1977 Code, § 13-201)

<sup>&</sup>lt;sup>1</sup>See ordinance passed on final reading June 4, 1970 of record in the recorder's office relating to telephone franchise. See also Ord. #450 (June 1996) and Ord. #455 (July 1996).

#### CHAPTER 2

### TITLE VI COMPLIANCE MANUAL

### **SECTION**

20-201. Title VI Compliance Manual adopted.

20-202. Policy statement.

20-201. <u>Title VI Compliance Manual adopted</u>.<sup>1</sup> The Title VI Compliance Manual for the City of Collegedale is hereby adopted in its entirety by reference. (as added by Ord. #573, March 2003)

20-202. <u>Policy statement</u>. The following statement shall be deemed as the City of Collegedale's Title VI policy statement: "It is the policy of the City of Collegedale 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. #573, March 2003)

<sup>&</sup>lt;sup>1</sup>The Title VI Compliance Manual is of record in the office of the city recorder.

#### CHAPTER 3

### OFFICE OF ADMINISTRATIVE HEARING OFFICER

#### SECTION

- 20-301. Municipal administrative hearing officer.
- 20-302. Communication by administrative hearing officer and parties.
- 20-303. Appearance by parties and/or counsel.
- 20-304. Pre-hearing conferences and orders.
- 20-305. Appointment of administrative hearing officer/administrative law judge.
- 20-306. Training and continuing education.
- 20-307. Citations for violations written notices.
- 20-308. Review of citations levy of fines.
- 20-309. Party in default.
- 20-310. Petitions for intervention.
- 20-311. Regulating course of proceedings hearing open to public.
- 20-312. Evidence and affidavits.
- 20-313. Rendering of final order.
- 20-314. Final order effective date.
- 20-315. Collection of fines, judgments and debts.
- 20-316. Judicial review of final order.
- 20-317. Appeal to court of appeals.
- 20-301. <u>Municipal administrative hearing officer</u>. (1) In accordance with title 6, chapter 54, section 1001, <u>et seq.</u>, of the <u>Tennessee Code Annotated</u>, there is hereby created the Collegedale Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the Collegedale Municipal Code relating to building and property maintenance including:
  - (a) Building codes adopted by the City of Collegedale;
  - (b) All residential codes adopted by the City of Collegedale;
  - (c) All plumbing codes adopted by the City of Collegedale:
  - (d) All electrical codes adopted by the City of Collegedale;
  - (e) All gas codes adopted by the City of Collegedale;
  - (f) All mechanical codes adopted by the City of Collegedale;
  - (g) All energy codes adopted by the City of Collegedale;
  - (h) All property maintenance codes adopted by the City of Collegedale; and
  - (i) All ordinances regulating any subject matter commonly found in the above-described codes.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to <u>Tennessee Code Annotated</u>, § 68-120-101(a) enforced by deputy building inspector pursuant to <u>Tennessee Code Annotated</u>, § 68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee, the chief building official of the City of Collegedale, and shall be an alternative to the enforcement included in the Collegedale Municipal Code.

- (2) There is hereby created one (1) administrative hearing officer position to be appointed by the city commission pursuant to § 20-305 below.
- (3) The amount of compensation for the administrative hearing officer shall be approved by the city commission.
- (4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city manager.
- (5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in title 6, chapter 54, section 1001, et seq., of the <u>Tennessee Code Annotated</u>. (as added by Ord. #787, Dec. 2011)

# 20-302. Communication by administrative hearing officer and parties.

- (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.
- (2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.
- (3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.
- (4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).
- (5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all

parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #787, Dec. 2011)

- 20-303. <u>Appearance by parties and/or counsel</u>. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.
- (2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative. (as added by Ord. #787, Dec. 2011)
  - 20-304. <u>Pre-hearing conference and orders</u>. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:
    - (i) The simplification of issues;
    - (ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
      - (iii) The limitation of the number of witnesses; and
    - (iv) Such other matters as may aid in the disposition of the action.
  - (b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.
- (2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.
- (3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.
- (4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #787, Dec. 2011)

- 20-305. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the city commission for a four (4) year term and serve at the pleasure of the city commission. Such administrative hearing officer may be reappointed.
  - (2) An administrative hearing officer shall be one (1) of the following:
    - (a) Licensed building inspector;
    - (b) Licensed plumbing inspector;
    - (c) Licensed electrical inspector;
    - (d) Licensed attorney;
    - (e) Licensed architect:
    - (f) Licensed engineer; or
- (3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of subsections 6-54-1007(a) and (b). (as added by Ord. #787, Dec. 2011)
- 20-306. <u>Training and continuing education</u>. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of State. MTAS shall offer this program of training no less than twice per calendar year.
- (2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS develop the continuing education curricula and offer that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this part. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.
- (3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for administrative hearing officer serving the city.
- (4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #787, Dec. 2011)
- 20-307. <u>Citations for violations-written notice</u>. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

- (a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;
- (b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;
- (c) Contact information for the city's administrative hearing office; and
- (d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.
- (2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.
- (3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.
- (4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative hearing officer within two (2) business days of issuance. (as added by Ord. #787, Dec. 2011)
- 20-308. Review of citation levy of fines. (1) Upon receipt of a citation issued pursuant to § 20-307, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.
  - (a) For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation. For purposes of this part, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.
  - (b) For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars (\$500.00) per violation per day. For purposes of this part, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.

- (2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.
- (3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:
  - (a) The fine and remedial period established pursuant to subsections (1) and (2);
  - (b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and
  - (c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.
- (4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).
- (5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (as added by Ord. #787, Dec. 2011)
- 20-309. <u>Party in default</u>. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.
- (2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #787, Dec. 2011)
- 20-310. <u>Petitions for intervention</u>. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:
  - (a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;

- (b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
- (c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.
- (2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:
  - (a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
  - (b) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and
  - (c) Requiring two (2) or more intervenors to combine their participation in the proceedings.
- (3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #787, Dec. 2011)

# 20-311. Regulating course of proceedings - hearing open to public.

- (1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.
- (2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct crossexamination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.
- (3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.
- (4) The hearing shall be open to public observation pursuant to title 8, chapter 44 of the <u>Tennessee Code Annotated</u>, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall

be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #787, Dec. 2011)

### 20-312. Evidence and affidavits. (1) In administrative hearings:

- (a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;
- (b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to crossexamination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as provided in this subdivision (b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;
- (c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;
- (d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and
  - (e) (i) Official notice may be taken of:
    - (A) Any fact that could be judicially noticed in the courts of this state;
    - (B) The record of other proceedings before the agency; or
    - (C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and
  - (ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material

- noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.
- (2) The notice referred to in subdivision (b) shall contain the following information and be substantially in the following form:

- 20-313. <u>Rendering of final order</u>. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.
- (2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.
- (3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.
- (4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.
- (5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.
- (6) A final order rendered pursuant to subsection (1) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after

- submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.
- (7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #787, Dec. 2011)
- 20-314. <u>Final order effective date</u>. (1) All final orders shall state when the order is entered and effective.
- (2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #787, Dec. 2011)
- 20-315. <u>Collection of fines, judgments and debts</u>. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #787, Dec. 2011)
- 20-316. <u>Judicial review of final order</u>. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.
- (2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.
- (3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.
- (4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.
- (5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons

for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

- (6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.
- (7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.
- (8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:
  - (a) In violation of constitutional or statutory provisions;
  - (b) In excess of the statutory authority of the administrative hearing officer;
    - (c) Made upon unlawful procedure;
  - (d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
  - (e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.
- (9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.
- (10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #787, Dec. 2011)
- 20-317. Appeal to court of appeals. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.
- (2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #787, Dec. 2011)

# Appendix A

Plan of Operation for the

Occupational Safety and Health Program

for the Employees of

The City of Collegedale

# **APPENDIX**

# A. OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN.

# APPENDIX A

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND				
HEALTH COLLEGE	PROGRAM FOR THE EMPLOYEES OF CITY OF DALE			
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### I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Collegedale.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Board of Commissioners in electing to update and maintain an effective occupational safety and health program for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints

concerning conditions or practices which may be injurious to employees' safety and health.

# II. <u>DEFINITIONS</u>

For the purposes of this program, the following definitions apply:

- a. COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Collegedale and includes each administrative department, board, commission, division, or other agency of the City of Collegedale.
- c. DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or DIRECTOR means the person designated by the establishing Ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of City of Collegedale.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee

Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
  - 1. a part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
  - 2. a part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- 1. ACT or TOSHAct shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, Mayor, City Manager, General Manager, etc., as may be applicable.

# III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are compiled with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

#### IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued

- pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for

- the protection of the health or safety of others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Director within twenty-four (24) hours after the occurrence.

# V. <u>ADMINISTRATION</u>

- a. The Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program.
  - 1. The Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
  - 2. The Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Director.
  - 3. The Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
  - 4. The Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
  - 5. The Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
  - 6. The Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
  - 7. The Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
  - 8. The Director shall maintain or cause to be maintained records required under Section VIII of this plan.

- 9. The Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
  - 1. The administration or operational head shall follow the directions of the Director on all issues involving occupational safety and health of employees as set forth in this plan.
  - 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Director within the abatement period.
  - 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
  - 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Director along with his findings and/or recommendations in accordance with APPENDIX V of this plan.

# VI. STANDARDS AUTHORIZED

The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

#### VII. VARIANCE PROCEDURE

The Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Director should definitely believe that a variance is needed before the

application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
  - 1. A specification of the standard or portion thereof from which the variance is sought.
  - 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
  - 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
  - 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
  - 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employees notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

# 1. The employer

- i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
- ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
- iii. Has as effective program for coming into compliance with the standard as quickly as possible.
- 2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

#### VIII. RECORDKEEPING AND REPORTING

- a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, <u>RECORDKEEPING REQUIREMENTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970</u> (Revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.
- b. The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix V to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix V to this plan.

### IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period of correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related

- correspondence with the Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

#### X. EDUCATION AND TRAINING

- a. Director and/or Compliance Inspector(s):
  - 1. Arrangements will be made for the Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
  - 2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, writing technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including managers and supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

- 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury. (Such as falls, electrocution, crushing injuries (e.g. cave-ins), and being struck by material or equipment.)
- 2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, person hygiene, etc., which may be required.
- 3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure,

- and the first aid procedures to be followed in the event of injury or exposure.
- 4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in Subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).
- 5. Instruct employees on hazards and dangers of confined or enclosed spaces.
  - i. Confined or enclosed space means having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
  - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
  - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

# XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will

be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the Director and/or Compliance Inspector(s), if appointed, is authorized:
  - 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
  - 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of inspections
  - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
  - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection

- or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
  - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Director.
  - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the Director.
- i. The Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

# XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
  - 1. The Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
  - 2. If the alleged imminent danger situation is determined to have merit by the Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
  - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
  - 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the

manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Director or Compliance Inspector and to the mutual satisfaction of all parties involved.

- 5. The imminent danger shall be deemed abated if:
  - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
  - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an <u>unsafe</u> condition or practice no longer exists.
- 6. A written report shall be made by or to the Director describing in detail the imminent danger and its abatement. This report will be maintained by the Director in accordance with subsection (i) of Section XI of this plan.

#### b. Refusal to Abate.

- 1. Any refusal to abate an imminent danger situation shall be reported to the Director and Chief Executive Officer immediately.
- 2. The Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

# XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Director shall:
  - 1. Issue an abatement order to the head of the worksite.
  - 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
  - 1. The standard, rule, or regulation which was found to violated
  - 2. A description of the nature and location of the violation.

- 3. A description of what is required to abate or correct the violation.
- 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

#### XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
  - 1. Oral reprimand.
  - 2. Written reprimand.
  - 3. Suspension for three (3) or more working days.
  - 4. Termination of employment.

### XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Director pursuant to this plan of operation or the legislation (Ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

### XVI. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, Ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.
- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statue, Ordinance or executive order, as applicable, regulating and promoting safety and health unless such law, statute, Ordinance, or executive order, as applicable, is specifically repealed.

Director	, Occupational Safety and Health	Date

# OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

#### APPENDIX I

#### ORGANIZATIONAL CHART

{For this section make a list of each work location wherein city employees work, such as City Hall, Water Plant, Police Department, City Garage, etc., the address for the workplace, phone number at that workplace, and number of employees who work there.}

Public Works <u>13 employees</u> 9769 Sandborn Drive

Collegedale, TN 37315 423-396-3135

City Hall 28 employees plus 8 police officers

4910 Swinyar Drive Collegedale, TN 37315 423-396-3135

Airport 6 employees

5100 Bess Moore Drive Collegedale, TN 37315 423-238-5008

TOTAL NO. EMPLOYEES: 47

{Once each work location has been listed, record the total number of employees that the city employs.}

# OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN APPENDIX III

# NOTICE TO ALL EMPLOYEES OF City of Collegedale

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the Director or the Board of Commissioners.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the Employees of the City of Collegedale available for inspection by any employee at the building inspection department during regular office hours.

Signature Mayor	Date

#### OCCUPATIONAL SAFETY AND HEALTH PLAN

#### APPENDIX IV

#### PROGRAM BUDGET

- 1. Prorated portion of wages, salaries, etc. for program administration and support.
- 2. Office space and office supplies.
- 3. Safety and health educational materials and support for education and training.
- 4. Safety devices for personnel safety and health.
- 5. Equipment modifications.
- 6. Equipment additions (facilities)
- 7. Protective clothing and equipment (personnel)
- 8. Safety and health instruments
- 9. Funding for projects to correct hazardous conditions.
- 10. Reserve fund for the program.
- 11. Contingencies and miscellaneous,

#### TOTAL ESTIMATED PROGRAM FUNDING:

#### ESTIMATE OF TOTAL BUDGET FOR:

#### STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Collegedale has suggicient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

#### OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

#### ACCIDENT REPORTING PROCEDURES

Note: All fatalities or accidents involving the hospitalization of three (3) employees shall be reported by phone to the Commissioner of Labor and Workforce Development within eight (8) hours.

There are six important steps required by the OSHA recordkeeping system.

- 1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
- 2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
- 3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
- 4. Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
- 5. Retain these records for at least 5 years.
- 6. Complete the Survey of Occupational Injuries/Illness and mail it to the Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures related to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Court, Board of Directors, etc.)

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours

after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

- (51-250)Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (51-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head is to be notified of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers' Compensation Form C20 or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

- Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
- 2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
- 3. Title of the department or division in which the injured or ill employee is normally employed.
- 4. Specific description of what the employee was doing when injured.
- 5. Specific description of how the accident occurred.
- 6. A description of the injury or illness in detail and the part of the body affected.
- 7. Name of the object or substance which directly injured the employee.
- 8. Date and time of injury or diagnosis of illness.
- 9. Name and address of physician, if applicable.
- 10. If employee was hospitalized, name and address of hospital.
- 11. Date of report.

**NOTE:** A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under **PROGRAM PLAN** in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the **one** procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. (as added by Ord. #633, June 2006)

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

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

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

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

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

Section 1. Ordinance 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 "Collegedale 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 Ordinances saved from repeal. The repeal 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 or said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinance or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

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

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

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

separate offense.

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

Section 7. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Reproduction and amendment of code. Section 8. municipal code shall be reproduced in loose-leaf form. The board of mayor and alderman, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code, and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 9. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 10. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

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

Approved as to Form:

City Attorney

Mayor G. Magoon

City Recorder

September 20, 1993 Passed on First Reading

October 18, 1993 Passed on Second Reading

January 4, 1994
Passed on Third Reading