THE

ELIZABETHTON

MUNICIPAL

CODE

Prepared by the

Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

December 2015

Change 4
December 11, 2025

CITY OF ELIZABETHTON, TENNESSEE

MAYOR

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MAYOR PRO-TEM

Michael G. (Mike) Simerly

CITY COUNCIL

Richard Barker
Kim Birchfield
Wesley D. Frazier
Deborah Gouge
Jeffrey C. Treadway

CITY MANAGER

Daniel A. Estes

CITY CLERK

Preston T. Cobb

CITY ATTORNEY

Roger G. Day

PREFACE

The Elizabethton Municipal Code contains the codification and revision of the ordinances of the City of Elizabethton, 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 § 2-106.

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).

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

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

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

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

The able assistance of the codes team: Kelley Myers, Coordinator, and Linda Winstead, Nancy Gibson and Sandy Selvage, Administrative Specialists, is gratefully acknowledged.

Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

6-32-202. Passage, amendment and repeal of ordinances.

(a) Each ordinance, before being adopted, shall be read at two (2) meetings not less than one (1) week apart, and shall take effect ten (10) days after its adoption, except that, where an emergency exists and the public safety and welfare requires it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by a majority of the members of the council on two (2) readings on successive days. As used in this section, the term "read" means the reading of the caption of the ordinance.

(b) At least the title and a brief summary of each ordinance, except an emergency ordinance, shall be published in the official city newspaper at least one (1) week before final passage, either separately or as part of the published proceedings of the council.

(c) Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection, or subsections in their amended form.

(d) An ordinance may be repealed by reference to its number and title only and publication of the ordinance may be similarly limited. [Acts 1957, ch. 238, § 5.02; T.C.A., § 6-3212, as amended by Acts 1993, ch. 353, § 2.]

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TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER
1. CITY COUNCIL.
2. DEPUTY CITY CLERK.
3. RECORD RETENTION SCHEDULE.
4. CODE OF ETHICS.

CHAPTER 1

CITY COUNCIL[2]

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

1-101. Time and place of regular meetings. The regular meetings of the Elizabethton City Council shall be held on the second Thursday in each

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[1]Charter references
See the charter index, the charter itself, and footnote references to the charter in the front of this code.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14, chapters 2--8.

[2]Charter references
For detailed provisions of the charter related to the election, and to general and specific powers and duties of the city council, see Tennessee Code Annotated, title 6, chapter 32. In addition, see the following provisions in the charter that outline some of the powers and duties of the city council:
Appointment and duties of city clerk: § 6-35-401.
Appointment and duties of city manager: title 6, chapter 35, part 2.
Election and duties of mayor: § 6-32-106.
Qualifications, elections, terms, vacancies and recall of councilmen: title 6, chapter 31.

month. The council shall provide by resolution for the time of day and place of meeting. (2000 Code, § 1-101)

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

(1) Call to order by the mayor.
(2) Roll call by the city clerk.
(3) Approval of the minutes of the previous meeting.
(4) Proclamations and/or recognition of citizens by the mayor.
(5) Comments from citizens.
(6) Communications from the city manager.
(7) Appointment of boards, commissions and committees.
(8) Reports from committees, members of the council and other officers.
(9) Consent agenda.
(10) Old business.
(11) New business.
(12) Bids, purchases and expenses.
(13) Adjournment. (2000 Code, § 1-102, as amended by Ord. #61-5, March 2025 ***Ch4_12-11-25***)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (2000 Code, § 1-103)

CHAPTER 2

DEPUTY CITY CLERK[1]

SECTION

1-201. Appointment and duties.

1-201. Appointment and duties. The city manager may appoint such deputy city clerks as are necessary to assist the city clerk in routine matters such as preparing and certifying copies of official records in his office, and in the absence of the city clerk to serve in the capacity of the city clerk. Any person appointed deputy city clerk shall be a classified city employee in another capacity and the duties and responsibilities as deputy city clerk shall be in addition to those assigned for the classified position. (2000 Code, § 1-201)

[1]Charter reference
City clerk: § 6-35-401.

CHAPTER 3

RECORD RETENTION SCHEDULE

SECTION

1-301. Adoption of record retention schedule.

1-301. Adoption of record retention schedule. The City of Elizabethton does hereby adopt the record retention schedule approved and published by the University of Tennessee Municipal Technical Advisory Service (MTAS), as amended from time to time as the record retention schedule for the City of Elizabethton, Tennessee, and the MTAS record retention schedule is hereby adopted and made a part here of, as if fully set out in this chapter, with such amendments as are made from time to time by the University of Tennessee Municipal Technical Advisory Service (MTAS). (2000 Code, § 1-301, as replaced by Ord. #54-11, March 2018, ***Ch1_12-13-18***)

CHAPTER 4

CODE OF ETHICS[1]

SECTION

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

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

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

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

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

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

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

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

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

1-401. Applicability. This chapter is the code of ethics for personnel of the City of Elizabethton. 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. (2000 Code, § 4-701)

1-402. Definition of "personal interest." 1. For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

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

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

3. In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (2000 Code, § 4-702)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (2000 Code, § 4-703)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects 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 city clerk. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or

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

policy, recuse himself from the exercise of discretion in the matter. (2000 Code, § 4-704)

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

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

2. That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (2000 Code, § 4-705)

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

2. An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (2000 Code, § 4-706)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the city council to be in the best interests of the City of Elizabethton. (2000 Code, § 4-707)

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

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 City of Elizabethton. (2000 Code, § 4-708)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the City of Elizabethton's charter or any ordinance or policy. (2000 Code, § 4-709)

1-410. Ethics complaints. 1. The city attorney is designated as the ethics officer of the City of Elizabethton. 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 city council to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

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

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

4. When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (2000 Code, § 4-710)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the Charter of the City of Elizabethton 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. (2000 Code, § 4-711)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER
1. PERSONNEL ADVISORY BOARD.
2. ELIZABETHTON-CARTER COUNTY PUBLIC LIBRARY.

CHAPTER 1

PERSONNEL ADVISORY BOARD[1]

SECTION
2-101. Creation; duties and powers.
2-102. Membership; terms.
2-103. Members to serve at pleasure of city council.
2-104. By-laws and rules of procedure.

2-101. Creation; duties and powers. A personnel advisory board is hereby created and the duties and powers of such board shall be as prescribed in the applicable provisions of Tennessee Code Annotated, title 6, chapters 30 through 36 and ordinances enacted by the Mayor and City Council of Elizabethton, Tennessee. (2000 Code, § 2-101)

2-102. Membership; terms. The board shall consist of seven (7) members who shall serve for a term of two (2) years, and the terms of the members appointed shall begin on October 5th of each odd numbered year. (2000 Code, § 2-102)

2-103. Members to serve at pleasure of city council. All members shall serve at the pleasure of city council and shall serve until their successors are qualified. (2000 Code, § 2-103)

2-104. By-laws and rules of procedure. The personnel advisory board is authorized to adopt by-laws and rules of procedure for the conduct of its authorized activities in so far as such by-laws and rules of procedure are not in conflict with laws of the state and ordinances of the City of Elizabethton; and as further established by appropriate resolution of the city council. (2000 Code, § 2-104)

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[1]Charter references
Personnel advisory board: §§ 6-33-105, 6-35-405, and 6-35-406.

CHAPTER 2

ELIZABETHTON-CARTER COUNTY PUBLIC LIBRARY

SECTION

2-201. Library board to operate.
2-202. Use of library building.

2-201. Library board to operate. The Elizabethton-Carter County Public Library Board shall be charged with and have full authority to see to the operation of the Elizabethton-Carter County Public Library. There shall be nine (9) members of the library board. Five (5) members shall be appointed by the Mayor and City Council of the City of Elizabethton; two (2) members shall be appointed by the Carter County Commission; one (1) member shall be appointed by The Business and Professional Women's Club of Elizabethton; and one (1) member shall be appointed by The Friends of the Library. There shall also be two (2) non-voting youth members, one (1) to be appointed by the Mayor of the City of Elizabethton, and one (I) to be appointed by the Carter County Commission. All members of the Elizabethton-Carter County Public Library Board shall serve for a term of three (3) years. (Ord. #49-14, 2013, as replaced by Ord. #58-16, Aug. 2022 ***Ch3_02-08-24***)

2-202. Use of library building. The Elizabethton--Carter County Public Library building shall only be used for qualified municipal purposes. The main floor shall be used primarily as a public library. The main floor shall not be used for any other purpose, except that the library board may allow local civic clubs or similar organizations to hold their meetings in the conference room when such meetings will not interfere with the library operation. (2000 Code, § 2-202)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER
1. COURT ADMINISTRATION.
2. WARRANTS, SUMMONSES AND SUBPOENAS.
3. BONDS AND APPEALS.
4. FINES AND COSTS.

CHAPTER 1

COURT ADMINISTRATION

SECTION
3-101. Maintenance of docket.
3-102. Imposition and remission of fines and costs.
3-103. Disposition and report of fines and costs.
3-104. Disturbance of proceedings.
3-105. Trial and disposition of cases.
3-106. Class C misdemeanors; driver education; fees.

3-101. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before the city court. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (2000 Code, § 3-101)

3-102. Imposition and remission of fines and costs. All fines and costs shall be imposed and recorded by the city judge on the city court docket in open court. After any fine and costs have been so imposed and recorded, the city judge shall not remit or release the same or any part thereof except when necessary to correct an error.[2] (2000 Code, § 3-102)

3-103. Disposition and report of fines and costs. All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall

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[1]Charter references
City court: § 6-33-103.
City judge: §§ 6-33-102 and 6-33-104.

[2]State law reference
Tennessee Code Annotated § 8-21-401.

be recorded by him and paid over daily to the city treasury. At the end of each month he shall submit to the council a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (2000 Code, § 3-103)

3-104. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (2000 Code, § 3-104)

3-105. Trial and disposition of cases. Every person charged with violating a city ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (2000 Code, § 3-105)

3-106. Class C misdemeanors; driver education; fees. The terms and provisions as set forth in Tennessee Code Annotated § 55-10-301 and all amendments thereof, are hereby adopted and ratified as though copied verbatim herein, together with all future amendments of this state law and are made a part hereof by reference. All fees generated pursuant to this program shall be allocated in the same ratio as the fines and fees of the city court. (2000 Code, § 3-106)

CHAPTER 2

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-201. Issuance of summonses.
3-202. Issuance of subpoenas.

3-201. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons, ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (2000 Code, § 3-202)

3-202. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (2000 Code, § 3-203)

CHAPTER 3

BONDS AND APPEALS

SECTION

3-301. Appearance bonds authorized.
3-302. Appeals.
3-303. Bond amounts, conditions, and forms.

3-301. 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. (2000 Code, § 3-301)

3-302. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.[1] (2000 Code, § 3-302)

3-303. 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 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.[2] 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. (2000 Code, § 3-303)

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[1]State law reference
Tennessee Code Annotated § 27-5-101.

[2]State law reference
Tennessee Code Annotated § 16-18-307.

CHAPTER 4

FINES AND COSTS

SECTION

3-401. Fines and costs.
3-402. Collection agencies.

3-401. Fines and costs. The Municipal Court of the City of Elizabethton, Tennessee shall assess the following fines and costs, to-wit:

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
13-205		Abandoned vehicle	$30.00	$49.00	$25.00	$55.30	$23.70	$79.00	$1.00		$13.75	$93.75	$118.75
10-105		Adequate food, water, shelter, -Required	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
11-401		Air rifles, etc.	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
11-601		Abandoned refrigerators, etc.	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
		All other class C misdemeanors not listed herein	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
		All other violations of city code-not listed herein	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-10-202	Allowing another to drive illegally	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
10-107		Animal care/cruelty to animals	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$103.75	$138.75
11-402		Throwing missiles	$30.00	$49.00	$25.00	$55.30	$23.70	$79.00	$1.00		$13.75	$118.75	$118.75
14-205		Application of regulations	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-128	Approach/entering intersection	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
11-605		Begging	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-177	Bicycle lamps and brakes penalties	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-158	Blocking lane of traffic	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-213	Brake fluid/minimum standards	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-205	Brake performance required	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-101	55-9-204	Brakes equipment required	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
17-119		Bulk containers located in downtown	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-176	Bicycles-carrying articles	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-215	Bumper law	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-117		Causing unnecessary noise-vehicle	$30.00	$49.00	$25.00	$55.30	$23.70	$79.00	$1.00		$13.75	$103.75	$118.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
15-114	55-8-189	Child in truck bed	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$103.75	$138.75
10-101		Running at large prohibited	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
15-113	55-8-174	Clinging to vehicles	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$103.75	$138.75
	55-8-167	Coasting prohibited	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-135	Crossing at other than crosswalks	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
11-603		Curfew for minors	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
13-101		Declared a public nuisance-weeds, junk, trash, garbage	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
		Defensive Driving Class Fee		$100.00	$25.00	$70.00	$30.00	$100.00				$125.00	$125.00
	55-9-103	Disabled vehicle warning devices	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
11-403		Discharge of firearms	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
15-118	55-4-110	Display of reg. plates-1st offense	$10.00	Entire fine amount is sent to the state, references T.C.A. 55-6-108								$23.75	$23.75
15-118	55-4-110	Display of reg. plates - manner 2nd offense	$20.00	Entire fine amount is sent to the state, references T.C.A. 55-6-108								$33.75	$33.75
	55-8-113	Display/sale of unauthorized signs	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
17-121		Disposition of bulk refuse	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$0.00	$103.75
11-201		Disturbing the peace	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
10-202	44-8-408	Dogs not allowed at large	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
10-203		Dogs required to be vaccinated	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
10-204		Dogs required to be tagged	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-136	Drivers to exercise due care	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
15-118	55-50-351	Driving w/o license in possession	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-414	Emergency blue lights requirements	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-102	Emergency equipment required	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
	55-9-402(D)(1)	Emergency flashing light system/blue light	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-150	Emerging from alley/driveway/building	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-131	Enter hwy from driveway with contact	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
	55-8-131	Enter hwy from driveway without contact	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-5-114(b)	Excess of the maximum weight limits	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
11-202(1)	55-8-193	Excessively loud radio amp. from vehicle	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$118.75	$128.75
15-118	55-3-102	Expired registration	$40.00	$49.00	$25.00	$34.30	$14.70	$49.00	$1.00		$13.75	$128.75	$128.75
15-118	55-4-108(A)	Failure to carry/display cert of reg.	$20.00	Entire fine amount is sent to the state, references T.C.A. 55-6-108							$13.75	$33.75	$33.75
15-107	55-8-109	Failure to obey traffic control device	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$138.75	$128.75
	55-8-110	Failure to obey traffic control signals	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$138.75	$128.75
	55-8-131	Failure to obey pedestrian control signals	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-8-112	Failure to obey flashing signals	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
15-101	55-9-406	Fail to oper. headlights - inclement weather	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
13-107		Failure to abate nuisance after notice-defined 13-103	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-12-139	Failure to comply w/ financial responsibility	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
	55-8-143(E)	Failure to maintain control	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
13-205		Failure to remove abandoned vehicles	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
15-506	55-8-130	Failure to yield - contact	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
15-506	55-8-130	Failure to yield - no contact	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
503.1.1		Fire-building and facilities	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
503.2.1		Fire - Dimension	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
2505.4		Fire - International code 2505.4	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
503.2.3		Fire - surface	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
504.3		Firefighter access	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
118.757-411		Fireworks violations, city code-city court	$30.00	$49.00	$25.00	$55.30	$23.70	$79.00	$1.00		$13.75	$118.75	$118.75
15-203	55-8-168	Following fire apparatus prohibited	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-124	Following too closely - no contact	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-124	Following too closely - with contact	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
15-112	55-8-183	Funeral processions	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-7-109	Hauling loose material	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-164	Headlamp on motorcycle or carry packages	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-407	Headlight dimming requirements	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-408	Headlight glare requirements	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-406	Headlight requirements	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-188	High occupancy vehicles lanes	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$60.00	$128.75
	55-8-139	Pedestrians soliciting rides or business	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
10-103		Hogs prohibited within 200 feet of residence, etc.	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
15-101		Horn required	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-125	Illegal crossing of highway median	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-142(A)	Illegal lane change	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-184	Illegal possession of traffic control sign, signal marker or device	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-9-108	Illegal replacement of airbags	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
	55-8-141	Illegal turning on curve or crest of grade	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-192	Illegal use of cell phone by school bus driver	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-119	55-8-119	Improper passing (limitation overtaking on left)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-401	55-8-144	Improper turn (signal by hand/arm/device req.)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-115	55-8-163	Improper backing	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-123	Improper lane change or wrong lane	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-119	55-8-121	Improper passing (no passing zone)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-119	55-8-117	Improper passing (overtaking on left)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-119	55-8-118	Improper passing (overtaking on right)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-140	Improper turn (at intersection)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-401	55-8-143	Improper turn (fail to signal for turn)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-142	Improper turn (turning movements)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
10-110		Inspections and orders by the health officer	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$0.00	$103.75
	55-8-114	Interference with traffic control devices	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
10-106		Keeping animal/fowl in nuisance of noise, odor, disease	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$0.00	$103.75
	55-9-405	Lamp or flag on projecting load	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-50-311	License - graduated license violations	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-50-311 (N)(1)	Learner permit - intermediate license - phone-restrictions	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-129	Left turn at intersection without contact	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-129	Left turn at intersection with contact	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
15-118		License - vehicles and operators to be licensed	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-101	55-9-402	Light law	$40.00	$49.00	$25.00	$62.30	$19.20	$89.00	$1.00		$13.75	$103.75	$128.75
11-502		Malicious mischief	$40.00	$24.00	$25.00	$44.80	$14.70	$64.00	$1.00		$13.75	$103.75	$103.75
	55-4-114	Max. gross weight ownership displayed	$40.00	$49.00	$25.00	$34.30	$26.70	$49.00	$1.00		$13.75	$103.75	$128.75
	55-7-201	Maximum length of vehicles	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-8-154	Minimum speed impede traffic	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-101	55-9-206	Mirror required trucks	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-107		Miscellaneous traffic control signs, etc.	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$138.75	$128.75
	55-50-601	Misdemeanor use of drivers license	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
15-101		Motor vehicle requirements, brakes, mufflers, horns, lights...	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$123.75	$128.75
	55-9-403	Motorcycle headlamps required	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-181	Motorcycle operator/ rights and duties	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-305	Motorcycles - rearview mirrors and footrests	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-302	Motorcycle - No helmet	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-302(A)	Motorcycle (passenger helmet)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-303	Motorcycle (no passenger seat)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-304	Motorcycle (passenger eye protection)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-212	Mudguards on trucks	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-202	Mufflers - loud/no	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
10-205		Noisy dogs prohibited	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-50-333	Notice of change of address - 10 days license	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
	55-4-131	Notice of change of address - 10 days registration	$40.00	$49.00	$25.00	$34.30	$14.70	$49.00	$1.00		$13.75	$103.75	$128.75
	55-8-104	Obedience to police officer	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-187	Obscene/offensive bumper sticker/sign	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
16-101		Obstructing sidewalk	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-165	Obstruction to drivers view	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$60.00	$128.75
	55-8-185	Off-highway vehicles on highways	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
11-101		Open container law	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
	55-8-182	Operate motorcycles on laned roadways	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-4-104	Operating mot. veh. w/expired tags	$40.00	$49.00	$25.00	$34.30	$14.70	$49.00	$1.00		$13.75	$128.75	$128.75
	55-8-171	Operation of bicycles and play vehicles	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-601		Parking - general	$10.00	$9.00		$13.30	$5.70	$19.00	$1.00	$1.00		$21.00	$21.00
15-602		Parking - angle	$10.00	$9.00		$13.30	$5.70	$19.00	$1.00	$1.00		$21.00	$21.00
15-603		Parking - occupancy of more than one space	$10.00	$9.00		$13.30	$5.70	$19.00	$1.00	$1.00		$21.00	$21.00
15-604		Parking - where prohibited	$10.00	$9.00		$13.30	$5.70	$19.00	$1.00	$1.00		$21.00	$21.00
15-604(14)	55-8-186	Parking - fire lane/handicap zone	$50.00	$9.00	$41.30		$17.70	$59.00	$1.00	$1.00		$61.00	$61.00
15-605		Parking - loading and unloading zones	$10.00	$9.00	$13.30		$5.70	$19.00	$1.00	$1.00		$21.00	$21.00
15-606	55-8-161	Parking - permits	$10.00	$9.00	$13.30		$5.70	$19.00	$1.00	$1.00		$21.00	$21.00
	55-9-104	Parking on shoulder non disabled vehicle	$10.00	$9.00	$13.30		$5.70	$19.00	$1.00	$1.00		$103.75	$21.00
	55-8-158	Parking outside business/residential dist	$10.00	$9.00	$13.30		$5.70	$19.00	$1.00	$1.00		$103.75	$21.00
15-119		Passing	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-138	Pedestrians on roadways	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-8-134	Pedestrians right-of-way in crosswalks	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
	55-8-133	Pedestrians subject to traffic regulations	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-8-137	Pedestrians use right half of crosswalks	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-8-180	Pedestrians with guide dog or cane	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
10-104		Pen or enclosure to be kept clean	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-9-207	Penalty for no rear view mirror	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
9-202		Permit required	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-105	Persons riding/driving animals	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
16-113		Play vehicle in business district	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
14-502		Prohibited signs	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-106	Public officers and employees	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
17-111		Residential containers, storage and requirements	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-8-173	Riding on bicycles	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-164	Riding on motorcycles	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-175	Riding on roadways and bicycle paths	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-505	55-8-149	Run stop sign	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$138.75	$128.75
15-204	55-8-169	Running over fire hose	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-601	Safety belts required in vehicle	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-7-114	Safety chains - illegal towing	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-156	Special speed limit penalty 1-19 over	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-156	Special speed limit penalty 20+ over	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
	55-8-155	Speed limit (motor driven cycle) 1-19 over	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-155	Speed limit (motor driven cycle) 20+ over	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
15-301 A	55-8-152	Speeding (1-9 MPH over)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
15-301 A	55-8-152	Speeding (10-19 MPH over)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-301 B	55-8-152	Speeding (20+ MPH over)	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
15-302 B	55-8-156	Speeding at intersection (20+ MPH over)	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
15-302 A	55-8-156	Speeding at intersections (1-19 MPH over)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-303 A		Speeding school zones/playgrounds (1-19 MPH)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
15-303 B		Speeding school zones/playgrounds 20+ MPH)	$50.00	$49.00	$25.00	$69.30	$29.70	$99.00	$1.00		$13.75	$138.75	$138.75
13-203		Storage on public/private property prohibited	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-9-404	Tail light required or license plate light	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-199	Text messaging while operating a motor vehicle	$50.00	$10.00		$42.00	$18.00	$60.00				$60.00	$60.00
	55-8-172	Traffic laws/persons riding bicycles	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-4-401	Transp. mobile home/house trailer w/o permit	$40.00	$49.00	$25.00	$34.30	$14.70	$49.00	$1.00		$13.75	$103.75	$128.75
	55-9-105	TV in motor vehicle visible to driver	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-8-162	Unattended motor vehicle (medical - hazard)	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
18-203		Unlawful disposal	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$0.00	$103.75
	55-8-179	Use of cane or blazed orange dog leash restricted to blind or deaf persons	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
	55-8-102	Vehicles upon highways	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
10-202		Vicious dogs, required - confined/leashed	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$0.00	$103.75
15-106	55-8-120	Viol. limitations on driving left of center of road	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75

				Court Cost		Fund Distribution							
City Code	State Code	Charge	Fine Amount	Cost	Tech Fee	70% General Fund	30% Police Equipment	Total	Training Fee	Privilege Tax Litigation	Litigation Tax	Current Cost	Proposed
15-105	55-8-115	Viol. of driving on right side of roadway	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
	55-8-127	Viol. of restrc. on controlled-access rdwy.	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-216	Steering wheel specifications	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
	55-9-106	Studded tires	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$0.00	$128.75
http://www.mtas.tennessee.edu/Citydept/Courts/child.restraint.pdf	55-9-602	Violation child restraint law 0-8 yrs	$40.00	$49.00		$34.30	$14.70	$49.00	$1.00		$13.75	$113.75	$113.75
	55-9-602 G,1A	Violation seat belt law age 9-12 yrs or over 49 in.	$50.00	Entire fine amount is forwarded to the state, reference T.C.A. 55-9-602, T.C.A. 55-9-603									$50.00
	55-9-602 G,B	Violation seat belt law age 13-15 yrs	$50.00	Entire fine amount is forwarded to the state, reference T.C.A. 55-9-602, T.C.A. 55-9-603									$50.00
	55-9-603 (l)(1)	Violation seat belt law 1st off (16-17)	$30.00	Entire fine amount is forwarded to the state, reference T.C.A. 55-9-602, T.C.A. 55-9-603									$25.00
	55-9-603 (P)	Violation seat belt law - 1st off (18+)	$30.00	Entire fine amount is forwarded to the state, reference T.C.A. 55-9-602, T.C.A. 55-9-603									$25.00
	55-9-603	Violation seat belt law - 2nd off	$55.00	Entire fine amount is forwarded to the state, reference T.C.A. 55-9-602, T.C.A. 55-9-603									$50.00
	55-8-126	Violation restricted access roadway	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
18-216		Wastewater disposal services	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$0.00	$103.75
15-502		When emerging from alleys, etc.	$40.00	$24.00	$25.00	$44.80	$19.20	$64.00	$1.00		$13.75	$103.75	$103.75
	55-9-107	Window tint violation	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$138.75	$128.75
15-101	55-9-203	Windshield must be equipped with wipers	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$103.75	$128.75
15-103	55-8-122	One-way roads and rotary traffic islands	$40.00	$49.00	$25.00	$62.30	$26.70	$89.00	$1.00		$13.75	$128.75	$128.75
NOTE: In the event any of the above mentioned fines are in conflict with state statute, then state law will supercede the amounts listed here.													

(Ord. #49-4, Feb. 2013, as amended by Ord. #52-8, April 2016, and Ord. #54-15, May 2018 ***Ch1_12-13-18***)

3-402. Collection agencies. (1) In accordance with Tennessee Code Annotated, § 40-24-105(e), the City of Elizabethton is authorized to employ the services of a collection agency to collect fines, court costs and litigation taxes assessed by the municipal court where the fines and costs have not been collected within sixty (60) days after they were due. Any fees of the collection agency shall be assessed as additional court costs in connection with the city offense. Interest will be collected on each account at a rate of ten percent (10%) per annum in accordance with Tennessee Code Annotated, § 47-14-121.

(2) Any such contract with a collection agency shall be in writing and shall include a provision specifying that the collection agency may institute an action to collect fines and costs in a judicial proceeding. The collection agency may be paid an amount which does not exceed any statutorily approved fees authorized by Tennessee Code Annotated, § 40-24-105(e).

(3) The contract with such collection agency may also include the collection of unpaid parking fines as provided in Tennessee Code Annotated, § 6-54-513, after the notices required by law are mailed to registered vehicle owners. (Ord. #51-21, Sept. 2015)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL RULES AND REGULATIONS.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. TRAVEL POLICY AND REIMBURSEMENT REGULATIONS.
4. RETIREMENT MEMENTOS.

CHAPTER 1

PERSONNEL RULES AND REGULATIONS

SECTION

4-101. Rules and regulations adopted by reference.
4-102. Administration.
4-103. Personnel rules and regulations.

4-101. Rules and regulations adopted by reference. (1) The 2017 Edition of the Personnel Rules and Regulations for the City of Elizabethton, Tennessee, which is attached hereto,[1] made a part hereof, annexed herewith, and incorporated herein by reference, which rules and regulations contain the Personnel Rules and Regulations of the City of Elizabethton, Tennessee, containing eleven (11) sections with three (3) appendices, which have been considered and approved by the Personnel Advisory Board of the City of Elizabethton, Tennessee, and read and considered by the City Council of the City of Elizabethton, Tennessee, be and the same is hereby adopted and declared to be the Personnel Rules and Regulations for the City of Elizabethton, Tennessee.

(2) That the document entitled "2017 Edition of the Personnel Rules and Regulations of the City of Elizabethton, Tennessee" be and the same hereby is incorporated verbatim in this section for the purpose of passing and adopting said rules and regulations as the same is written and prepared. (2000 Code, § 4-201, as replaced by Ord. #53-21, Sept 2017 ***Ch1_12-13-18***)

[1]Ordinances amending Personnel Rules and Regulations are of record in the city clerk's office.

4-102. Administration.[1] The personnel system shall be administered by the city manager, who shall have the following duties and responsibilities:

(1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration.

(2) Establish policies and procedures for the recruitment, appointment, and discipline of all employees of the city subject to those policies as set forth in this chapter, the city charter and the municipal code.

(3) Fix and establish the number of employees in the various city government departments and offices, and determine the duties, authority, responsibility and compensation in accordance with the policies as set forth in the city charter and code, and subject to the approval of the city council and budget limitations.

(4) Foster and develop programs for the improvement of employee effectiveness, including training, safety, and health.

(5) Maintain records of all employees subject to the provisions of this chapter of the city code which shall include each employee's class, title, pay rates, and other relevant data.

(6) Make periodic reports to the city council regarding the administration of the personnel system.

(7) Recommend to the city council a position classification plan, and install and maintain such a plan upon approval by the city council.

(8) Prepare and recommend to the city council a pay plan for all city government employees.

(9) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the city government.

(10) Be responsible for certification of payrolls.

(11) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law and the city council. (2000 Code, § 4-202)

4-103. Personnel rules and regulations. The city manager shall develop rules and regulations necessary for the effective administration of the personnel system. The Personnel Advisory Board shall consider for adoption the rules presented to them by the city manager and, if approved, recommend the rules and regulations to the Elizabethton City Council.[2] (2000 Code, § 4-203, as replaced by Ord. #53-21, Sept. 2017 ***Ch1_12-13-18***)

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[1]Charter reference

Administration of personnel system: § 6-35-404.

[2]The Personnel Rules and Regulations are of record in the city clerk's office.

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

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4-201. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the occupational safety and health program plan for the employees of the City of Elizabethton.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Elizabethton in electing to update and maintain an effective occupational safety and health program plan for its employees:

(1) Provide a safe and healthful place and condition of employment.

(2) Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.

(3) 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 Safety 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.

(4) 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.

(5) 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.

(6) Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program plan effectiveness and compliance with the occupational safety and health standards.

(7) 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 safety and health program plan.

(8) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (Ord. #49-11, May 2013)

4-202. Definitions. For the purposes of this program plan, the following definitions apply:

(1) "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.

(2) "Employer" means the City of Elizabethton and includes each administrative department, board, commission, division, or other agency of the City of Elizabethton.

(3) "Safety director of occupational safety and health" or "safety 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 plan for the employees of the City of Elizabethton which shall be city manager of the City of Elizabethton or his designee.

(4) "Inspector(s)" means the individual(s) appointed or designated by the safety 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 safety director of occupational safety and health.

(5) "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.

(6) "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.

(7) "Person" means one (1) or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.

(8) "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 (1) 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.

(9) "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.

(10) "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.

(11) "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

(a) 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

(b) 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.

(12) "Act" or "TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.

(13) "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.

(14) "Chief executive officer" means the chief administrative official, county judge, county chairman, county mayor, mayor, city manager, general manager, etc., as may be applicable. (Ord. #49-11, May 2013)

4-203. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

(1) 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.

(2) 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.

(3) Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers 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.

(4) 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.

(5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of its legally privileged communication.

(7) Employer shall inspect all work sites to insure the provisions of this program plan are complied with and carried out.

(8) 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.

(9) Employer shall notify all employees of their rights and duties under this program plan. (Ord. #49-11, May 2013)

4-204. Employees' rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

(1) Each employee shall comply with Occupational Safety and Health Act standards and rules, regulations, and orders issued pursuant to this program plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

(2) 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 provisions of the TOSH Act or any standard or regulation promulgated under the Act.

(3) 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.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program plan 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.

(5) 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.

(6) Subject to regulations issued pursuant to this program plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the safety director or inspector at the time of the physical inspection of the worksite.

(7) Any employee may bring to the attention of the safety director any violation or suspected violations of the standards or any other health or safety hazards.

(8) 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 plan.

(9) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (8) of this section may file a complaint alleging such discrimination with the safety 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.

(10) Nothing in this or any other provisions of this program plan 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.

(11) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the safety director within twenty-four (24) hours after the occurrence. (Ord. #49-11, May 2013)

4-205. Administration. (1) The safety 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 plan.

(a) The safety director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program plan.

(b) The safety director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the safety director.

(c) The safety 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 plan.

(d) The safety 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 plan.

(e) The safety director shall prepare the report to the Commissioner of Labor and Workforce Development required by § 4-201(g) of this plan.

(f) The safety 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.

(g) The safety director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

(h) The safety director shall maintain or cause to be maintained records required under § 4-208 of this plan.

(i) The safety director shall, in the eventuality that there is a fatality, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within twenty-four (24) hours.

(2) 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 plan within their respective areas.

(a) The administrative or operational head shall follow the directions of the safety director on all issues involving occupational safety and health of employees as set forth in this plan.

(b) 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 safety director within the abatement period.

(c) 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.

(d) 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 safety director along with his findings and/or recommendations in accordance with § 4-220 of this plan. (Ord. #49-11, May 2013, as amended by Ord. #57-8, March 2021 ***Ch2_3-11-21***)

4-206. <u>Standards authorized</u>. The standards adopted under this program plan are the applicable standards developed and promulgated under section VI(6) of the Tennessee Occupational Safety and Health Act of 1972. 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. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, chapter 0800-01-1 through chapter 0800-01-11 are the standards and rules invoked. (Ord. #49-11, May 2013)

4-207. <u>Variance procedure</u>. The safety 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 safety 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:

(1) The application for a variance shall be prepared in writing and shall contain:

(a) A specification of the standard or portion thereof from which the variance is sought.

(b) 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.

(c) A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

(d) 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.

(e) 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 employee 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.

(2) The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

(3) 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:

(a) 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 an effective program plan for coming into compliance with the standard as quickly as possible.

(b) The employee is engaged in an experimental program plan as described in subsection (b), section 13 of the Act.

(4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

(5) 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.

(6) 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 (1)(e) of this section. (Ord. #49-11, May 2013)

4-208. <u>Recordkeeping and reporting</u>. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the forms for recordkeeping from the internet. Go to www.osha.gov and click on recordkeeping forms located on the home page.

The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix IV (§ 4-220) to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Occupational Safety and Health Recordkeeping and Reporting, chapter 0800-01-03, as authorized by Tennessee Code Annotated, title 50. (Ord. #49-11, May 2013)

4-209. 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 safety director of occupational safety and health.

(1) 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 (1)(h) of this plan).

(2) Upon receipt of the complaint letter, the safety 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 safety 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.

(3) 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 for 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.

(4) 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.

(5) 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 safety director and the chief executive officer or the representative of the governing body.

(6) Copies of all complaint and answers thereto will be filed by the safety director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request. (Ord. #49-11, May 2013)

4-210. Education and training. (1) Safety director and/or compliance inspector(s).

(a) Arrangements will be made for the safety director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of seminars can be obtained.

(b) Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/ supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

(2) All employees (including supervisory personnel). A suitable safety and health training program for employees will be established. This program will, as a minimum:

(a) 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.

(b) Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.

(c) 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.

(d) Instruct all employees of the common deadly hazards and how to avoid them, such as falls equipment turnover; electrocution; struck by/caught in; trench cave in; heat stress and drowning.

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

(i) Confined or enclosed space means space 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. (Ord. #49-11, May 2013)

4-211. <u>General inspection procedures</u>. It is the intention of the governing body and responsible officials to have an occupational safety and health program plan 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.

(1) In order to carry out the purposes of this chapter, the safety director and/or compliance inspector(s), if appointed, is authorized:

(a) To enter at any reasonable time, any establishment, facility, worksite where work is bing performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer; and

(b) 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.

(2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the safety director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in

accordance with this section of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

(3) 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 safety director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

(4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

(5) The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

(6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

(7) Advance notice of inspections. (a) 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.

(b) 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.

(8) The safety 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:

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

(b) Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the safety director.

(9) The safety 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. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative. (Ord. #49-11, May 2013)

4-212. Imminent danger procedures. (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

(a) The safety 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.

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

(c) As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the safety 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.

(d) 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 safety director or compliance inspector and to the mutual satisfaction of all parties involved.

(e) 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 unsafe condition or practice no longer exists.

(f) A written report shall be made by or to the safety director describing in detail the imminent danger and its abatement. This report will be maintained by the safety director in accordance with § 4-211(1) of this plan.

(2) Refusal to abate. (a) Any refusal to abate an imminent danger situation shall be reported to the safety director and chief executive officer immediately.

(b) The safety director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (Ord. #49-11, May 2013)

4-213. Abatement orders and hearings. (1) Whenever, as a result of an inspection or investigation, the safety 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 safety director shall:

(a) Issue an abatement order to the head of the worksite.

(b) Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

(2) Abatement orders shall contain the following information:

(a) The standard, rule, or regulation which was found to violated.

(b) A description of the nature and location of the violation.

(c) A description of what is required to abate or correct the violation.

(d) A reasonable period of time during which the violation must be abated or corrected.

(3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the safety director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the safety 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 safety 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. (Ord. #49-11, May 2013)

4-214. Confidentiality of privileged information. All information obtained by or reported to the safety director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program plan 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 plan or when relevant in any proceeding under this program plan. 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. (Ord. #49-11, May 2013)

4-215. Discrimination investigations and sanctions. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Discrimination Against Employees Exercising Rights under the Occupational Safety and Health Act of 1972 0800-01-08, as authorized by Tennessee Code Annotated, title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tennessee Code Annotated, § 50-3-409 can file a complaint with their agency/safety safety director within thirty (30) days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same thirty (30) day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation. (Ord. #49-11, May 2013)

4-216. Compliance with other laws not excused. (1) Compliance with any other law, statute, ordinance, or executive order, 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 plan.

(2) Compliance with any provisions of this program plan or any standard, rule, regulation, or order issued pursuant to this program plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, 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. (Ord. #49-11, May 2013)

4-217. <u>Appendix I--Work locations</u>.

Organizational Chart	
Location	No. of Employees
Elizabethton City Hall 136 South Sycamore Street Elizabethton, TN 37643	33
Elizabethton/Carter County Public Library 201 North Sycamore Street Elizabethton, TN 37643	11
Elizabethton Police--Criminal Investigation Dept. 201 North Sycamore Street (basement of public library) Elizabethton, TN 37643	6
Elizabethton Police Department 525 East F Street Elizabethton, TN 37643	41
Elizabethton Fire Dept. Station #1 121 South Sycamore Street Elizabethton, TN 37643	15
Elizabethton Fire Dept. Station #2 Corner of West G and Hunter Street Elizabethton, TN 37643	9
Elizabethton Fire Dept. Station #3 185 Buck Vanhuss Drive Elizabethton, TN 37643	9
Elizabethton City Garage 729 South Sycamore Street Elizabethton, TN 37643	
Fleet maintenance	4
Water administration	3
Street and sanitation	24
Water resources construction	25

Organizational Chart	
Location	No. of Employees
Elizabethton Electric Department 400 Hatcher Lane Elizabethton, TN 37643	50
Elizabethton Parks and Recreation 300 West Mill Street Elizabethton, TN 37643	6
Elizabethton Parks and Recreation--Maintenance 208 North Holly Lane Elizabethton, TN 37643	11
Elizabethton Pool--Parks and Recreation 1499 West Elk Avenue Elizabethton, TN 37643	15 (Seasonal/temp)
Water Resources Facilities/Engineering 217 Sycamore Shoals Drive Elizabethton, TN 37643	18
Water Treatment Plant--Valley Forge 124 Journey's End Road Elizabethton, TN 37643	2
Water Treatment Plant--Hampton 202 Main Street Hampton, TN 37658	1
Water Treatment Plant--Big Springs 213 Water Plant Road Elizabethton, TN 37643	2
TOTAL EMPLOYEES	283
TOTAL NUMBER OF EMPLOYEES	283

(Ord. #49-11, May 2013, as replaced by Ord. #57-8, March 2021 ***Ch2_3-11-21***)

4-218. Appendix II--Notice to all employees.

NOTICE TO ALL EMPLOYEES OF THE CITY OF ELIZABETHTON, TENNESSEE.

The Tennessee Occupational Safety and Health Act of 1972 provide 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 plan 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 plan may file a petition with the safety director or personnel director.

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 plan, 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 plan.

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 City of Elizabethton Personnel Advisory Board 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 Plan for the Employees of the City of Elizabethton is available for inspection by any employee at city hall during regular office hours.

(Ord. #49-11, May 2013)

4-219. Appendix III--Program plan budget.

Statement of Financial Resource Availability

Be assured that the City of Elizabethton has sufficient 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 Plan and to comply with standards. (Ord. #49-11, May 2013)

4-220. Appendix IV--Accident reporting procedures.

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the 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 Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with § 4-208 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 the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper 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 Safety Director and/or record

keeper 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 supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper 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 Safety Director and/or record keeper 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 the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety 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 record keeper.

(251-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 Safety 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 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 Workers Compensation Form 6A 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:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by the 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. (Ord. #49-11, May 2013)

4-221. Violations and penalty. (1) 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 plan.

(2) 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 (1) of the following ways as appropriate and warranted:

(a) Oral reprimand;
(b) Written reprimand;
(c) Suspension for three (3) or more working days;
(d) Termination of employment. (Ord. #49-11, May 2013)

CHAPTER 3

TRAVEL POLICY AND REIMBURSEMENT REGULATIONS

SECTION

4-301. Travel requests.
4-302. Lodging.
4-303. Mileage.
4-304. Meals.
4-305. Parking.
4-306. Baggage and equipment handling fee.
4-307. Automobile rentals.
4-308. Air travel.
4-309. Phone call charges.
4-310. Conference or training registration.
4-311. City credit cards and cash advances.
4-312. Special functions.
4-313. Disciplinary action.

4-301. Travel requests. An approved "authorization for travel" request form is required prior to travel. A "statement of travel expense claims" form must be filed within ten (10) days of the completion of the authorized travel. Expenses for travel required in the performance of duties and approved by the immediate supervisor and the city manager, or the city manager's designee, will be reimbursed in accordance with the rates hereinafter set forth. (2000 Code, § 4-501)

4-302. Lodging. Lodging will be reimbursed at the actual expense of the room, including the motel occupancy tax, or the maximum lodging in-state travel reimbursement rates established by the State of Tennessee, Department of Finance and Administration, in effect on the dates of travel, whichever is less. All City of Elizabethton travelers should request a state rate, if available, at the hotel/motel place of lodging.

A tax exempt form should be given to the hotel/motel clerk upon check-in and payment should be made either by a City of Elizabethton check or by a City of Elizabethton credit card in order to avoid paying state and local sales tax. The motel occupancy tax is not exempt.

An original (not a copy) hotel/motel receipt is required for reimbursement. City of Elizabethton employees are encouraged to stay at the location of their meeting for both individual convenience and safety purposes. If a personal credit card is used to pay for the hotel/motel, then the state and local sales tax will be charged by the hotel/motel and will not be reimbursed to the city employee. (Ord. #51-17, Aug. 2015)

4-303. Mileage. Employees are encouraged to reserve and use a city owned vehicle, if available, for all work-related travel. Mileage will only be paid if a city vehicle is not available and the city manager or their designee approves the use of a privately owned vehicle for travel. If the actual odometer mileage is not kept by the traveler, the mileage will be estimated using a computerized mapping program maintained in the finance department.

The reimbursement rate effective August 1, 2015, is forty-seven cents ($0.47) per mile. All future mileage reimbursement for the use of an employee's personal vehicle shall be at the rate adopted by the State of Tennessee pursuant to the Department of Finance and Administration Comprehensive Travel Regulations in effect on the dates of the employee's travel. For longer trips, mileage will not be paid that exceeds the cost of air transportation and associated taxi services to the same location. (Ord. #51-18, Aug. 2015)

4-304. Meals. Due to IRS regulations, meals are not paid unless a trip involves overnight travel. A meal allowance will be paid, based on the State of Tennessee, Department of Finance and Administration, Standard Reimbursement Rates for in-state travel at the rates in effect on the actual dates of travel.

All out-of-state travel shall be reimbursed at the out-of-state reimbursement rates established by the State of Tennessee, Department of Finance and Administration, standard reimbursement rates in effect on the actual date of travel. The State of Tennessee, Department of Finance and Administration, currently asks employees to utilize the U.S. General Services Administration Continental United States (CONUS) rates provided by the federal government.

A partial per diem will be paid based upon departure and return times as follows for overnight trips:

Meal	If depart prior to	If return after
Breakfast	7:00 A.M.	8:00 A.M.
Lunch	11:00 A.M.	1:30 P.M.
Dinner	5:00 P.M.	6:30 P.M.

TRAVEL PER DIEM REIMBURSEMENT RATES

RATES EFFECTIVE ON AND AFTER AUGUST 23, 2015

MEALS - FULL DAY ALLOWANCE AMOUNTS

Memphis	$61.00
Nashville	$66.00
Franklin	$56.00
Brentwood	$56.00
Knoxville	$56.00

Chattanooga	$56.00
Pigeon Forge	$46.00
Gatlinburg	$46.00
Murfreesboro	$46.00

BREAKDOWN OF MEAL ALLOWANCE

Total	Breakfast	Lunch	Dinner	IE
$66.00	$11.00	$16.00	$34.00	$5.00
$61.00	$10.00	$15.00	$31.00	$5.00
$56.00	$9.00	$13.00	$29.00	$5.00
$46.00	$7.00	$11.00	$23.00	$5.00

MILEAGE

$0.47 cents per mile. (Ord. #41-17, Aug. 2015)

4-305. Parking. Parking will be reimbursed at the actual cost with receipt. Without receipt, maximum reimbursement for parking is eight dollars ($8.00) per day. Valet parking will be at employee's expense. (2000 Code, § 4-505)

4-306. Baggage and equipment handling fee. The maximum handling fee that will be reimbursed is six dollars ($6.00) per hotel. (2000 Code, § 4-506)

4-307. Automobile rentals. Automobile rentals are only authorized by the city manager in unusual circumstances. If used in conjunction with air travel, it must be demonstrated that automobile rental is more economical to the city than using taxi or bus services and must be pre-approved by the city manager. (2000 Code, § 4-507)

4-308. Air travel. Air travel will be utilized when it is more economical to the city than providing a city vehicle. Air travel should be scheduled as far in advance as possible to get maximum use of early scheduling discounts. Any and all frequent flyer miles accumulated are the property of the city and will be applied to future official city travel. (2000 Code, § 4-508)

4-309. Phone call charges. Only official business phone calls will be reimbursed by the city. Any and all personal phone calls are the responsibility of the individual making the call. (2000 Code, § 4-509)

4-310. Conference or training registration. All registration fees, materials and supplies will be reimbursed provided they were listed on the

travel request for pre-approved travel. Meals included in registration do not impact per diem rates. (2000 Code, § 4-510)

4-311. City credit cards and cash advances. (1) If requested, city credit cards will be issued in accordance with the credit card policy for official travel. The credit card must be returned to the finance department and all travel documents filed for reimbursement within ten (10) days of completion of travel.

(2) In accordance with the meal allowance for overnight travel, a cash advance may be requested for the meal per diem instead of using a credit card and should be included on the travel authorization form. The amount should be based on the allocated amount(s) according to the travel departure and return times listed on the travel form for Level 1 or Level 2 locations in order for a check to be processed prior to departure.

Per diem is not provided for a single travel day to and from conferences, meetings and etc., when the employee does not stay overnight. (Ord. #51-16, Aug. 2015)

4-312. Special functions. The city manager may approve payment of special functions, such as banquets and other work-related social events, if they are requested in advance. Special function attendance does not affect per diem rate payment. (2000 Code, § 4-512)

4-313. Disciplinary action. Violation of the travel rules or travel fraud can result in disciplinary action up to and including termination of employment for city employees, in addition to criminal prosecution. Violation of travel rules or travel fraud can result in removal from office and criminal prosecution of city officials. (2000 Code, § 4-513)

CHAPTER 4

RETIREMENT MEMENTOS

SECTION

4-401. Award of items to certain retiring police officers.

4-401. Award of items to certain retiring police officers. Notwithstanding any other provision of this chapter:

(1) The chief of police shall be authorized, but is not required to award any sworn officer over the age of fifty (50) retiring in good standing having a minimum of twenty-five (25) years of service with the Elizabethton Police Department that officer's service weapon and/or badge, or an equivalent item, or any other de minimus item as a memento of the officer's service. The decision to award any such item shall be in the sole discretion of the chief of police. An officer receiving any such item shall acknowledge receipt and ownership of the item or items in writing, and shall release the city from any liability from use or ownership of the item or items, including having any firearm registered in the officer's name. The chief of police shall report the award of such items to the city manager, and shall retain a record of any such items awarded to retiring officers.

(2) Any award made prior to September 1, 2006, of a weapon and/or badge to a sworn police officer over age fifty (50) retiring after twenty-five (25) years of service with the Elizabethton Police Department shall be deemed as a lawful transfer of that item to the retiring employee, which shall vest ownership of the item with that retiring employee. The chief of police shall forward a record of such items previously awarded to the city manager, and shall retain a record of any such items previously awarded.

(3) The award of any service weapon, badge or other de minimus item shall not confer upon the recipient any police powers or other authority. (2000 Code, § 4-601)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER
1. REAL PROPERTY TAXES.
2. PRIVILEGE TAX - BUSINESS TAX.
3. PRIVILEGE TAX - ACCOMMODATION FOR TRANSIENTS.
4. WHOLESALE BEER TAX.

CHAPTER 1

REAL PROPERTY TAXES

SECTION
5-101. Administration of taxes and special assessments.

5-101. Administration of taxes and special assessments. The assessment, levy, and collection of taxes and special assessments shall be in charge of the department of finance and taxation, subject to the provisions of the municipal code.

All real property taxes and personal property taxes of the city shall be due and payable on the tenth day of November of the year for which the taxes are assessed.

The city treasurer shall be the custodian of the tax books and shall be the tax collector of the city.

All municipal taxes on real property and personal property in the city and all penalties and costs accruing thereon are hereby declared to be a lien on said property from and after the first day of January of each year hereafter for which same are assessed, which lien shall be superior to all liens except liens of the United States and the State of Tennessee for taxes legally assessed thereon.

No assessment shall be invalid because of inadequate description of the property or if the same is assessed to an unknown owner or in the name of a person or persons who are not the lawful owner thereof. The city council shall have the power to have corrected any errors in the tax assessments.

If such taxes are not paid on or before the date fixed for the delinquencies thereof, to the amount of tax due and payable a penalty of one-half of one percent (1/2 of 1%) and interest of one percent (1%) shall be added on the first day of April, following the tax due date and on the first day of each succeeding month.

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[1]Charter reference
Collection of taxes: § 6-35-301.

The city treasurer shall turn over to the city attorney for collection on July 1, all delinquent taxes assessed for the previous year and an attorney's fee of ten percent (10%) shall be added on that date and the city attorney shall be required, no later than October 1 following, to file with the clerk and master of the chancery court a list of all delinquent taxes on real estate and personal property for the sale of said real estate and personal property, for the collection of taxes, or which is liable for sale for other taxes and the same will be sold in a like manner and upon the same terms as property is sold for delinquent state and county taxes. (2000 Code, § 5-201)

CHAPTER 2

PRIVILEGE TAX - BUSINESS TAX[1]

SECTION

5-201. Tax levied.
5-202. "Business Tax Act" implemented.
5-203. License required.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state[2] to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said laws. (2000 Code, § 5-301)

5-202. "Business Tax Act" implemented. The taxes provided for in Tennessee Code Annotated, title 67, chapter 4, known as the "Business Tax Act," are hereby enacted, ordained, and levied on the businesses, business activities, vocations, or occupations carried on in Elizabethton, Tennessee, at the rates and in the manner prescribed by the said act.

The provisions of this section shall be retroactive to June 1, 1971, to coincide with the effective date of the public act. (2000 Code, § 5-302)

5-203. License required. No person shall exercise any privilege taxed by the city without a currently effective privilege license which shall be issued by the city clerk to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (2000 Code, § 5-303)

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[1]Chapter name changed by Ord. #59-8, April 2023 ***Ch3_02-08-24***.

[2]State law reference
Tennessee Code Annotated, title 67.

CHAPTER 3

PRIVILEGE TAX - ACCOMMODATIONS FOR TRANSIENTS

SECTION

5-301. Definitions.
5-302. Tax levied.
5-303. Collection of tax.
5-304. Tax to be remitted to the finance department.
5-305. Finance department to collect tax.
5-306. No advertising of rebates.
5-307. Delinquent taxes.
5-308. Records.
5-309. Administration and enforcement; remedies of taxpayers.
5-310. Tax placement and use.
5-311. Severability.
5-312. Tax is additional tax.

5-301. Definitions. As used in this chapter unless the context otherwise requires:

(l) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) "Hotel" means any structure or space, or any portion thereof, that is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel, short-term rental units, primitive and recreational vehicle campsites and campgrounds, or any place in which rooms, lodgings or accommodations are furnished to transients for consideration;

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel;

(4) "Operator" means the person operating the hotel, whether as owner, lessee or otherwise;

(5) "Person" means any individual, or group of individuals, that occupies the same room;

(6) "Tourism" means attracting nonresidents to visit the City of Elizabethton and encouraging those nonresidents to spend money in the city, which includes travel related to both leisure and business activities;

(7) "Tourism development" means the acquisition and construction of, and financing and retirement of debt for, facilities related to tourism;

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-302. Tax levied. There is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount equal to four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-303. Collection of tax. This privilege tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his/her hotel and be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the City of Elizabethton.

When a person has maintained the occupancy for thirty (30) continuous days, they shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-304. Tax to be remitted to the finance department. The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the city to the finance department of the City of Elizabethton, such tax to be remitted to such office no later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator. and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-305. Finance director to collect tax. The finance director shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the finance department by the operator with such number of copies thereof as the finance director may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the finance director and approved by the City Council of the City of Elizabethton prior to use. The finance director shall audit each operator in the city at least once per year and shall report on all audits made on a quarterly basis to the Elizabethton City Council. The city council is authorized

to adopt ordinances or resolutions to provide reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-306. No advertising of rebates. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-307. Delinquent taxes. Taxes collected by an operator, or due from an operator, which are not remitted to the finance department on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition, a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars ($50.00). Each occurrence shall constitute a separate offense. As used herein above, "each occurrence" means each day.

Nothing in this section shall be construed to prevent the authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this chapter. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-308. Records. It shall be the duty of every operator liable for the collection and payment to the city of the tax imposed by this ordinance to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the finance director shall have the right to inspect at all reasonable times. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-309. Administration and enforcement; remedies of taxpayers. The finance director in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks. The finance director shall also possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707(a)(b), for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by the recorder under authority of this ordinance and to direct the refunding of same. Upon any claim

of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of the chapter. Notice of any tax paid under protest shall be given to the finance director and any suit brought shall be brought against the finance director in the director's official capacity as the collector of the tax. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-310. Tax placement and use. The finance director is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the city general fund or such other fund as the city council shall designate. Such funds may be used only for the purposes of tourism or tourism development. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-311. Severability. If any provision of this chapter or the application thereof to any person circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

5-312. Tax is additional tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (as added by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The city clerk is hereby directed to collect for the city the seventeen percent (17%) wholesale beer tax levied by the "Wholesale Beer Tax Act" as set out in Tennessee Code Annotated, title 57, chapter 6.[1] (2000 Code, § 5-401, as renumbered and replaced by Ord. #59-8, April 2023 ***Ch3_02-08-24***)

[1]Municipal code references
Alcohol and beer regulations: title 8.
Privilege tax: § 8-217.

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST

SECTION
6-101. Police officers subject to chief's orders.
6-102. Police officers to preserve law and order, etc.
6-103. Police officers to wear uniforms and be armed.
6-104. When police officers to make arrests.
6-105. Police officers may require assistance.
6-106. Police department records.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (2000 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court.[1] (2000 Code, § 6-102)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the council shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (2000 Code, § 6-103)

6-104. When police officers to make arrests.[2] Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

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[1]Charter reference
Execution of warrants, etc.: § 6-33-103.

[2]Municipal code reference
Traffic citations, etc.: title 15, chapter 7.

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (2000 Code, § 6-104)

6-105. Police officers may require assistance. It shall be unlawful for any person to willfully refuse to aid a police officer in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (2000 Code, § 6-105)

6-106. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

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

(2) All arrests made by police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (2000 Code, § 6-107)

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[1]Charter reference
Execution of warrants, etc.: § 6-33-103.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER
1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION
7-101. Reserved.

7-101. Reserved. (Ord. #51-8, June 2015)

[1]Municipal code reference
Building, utility and residential codes: title 12.

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted.
7-202. Revisions.
7-203. Geographic limits.
7-204. Severability.

7-201. Fire code adopted. That a certain document being marked and designated as the International Fire Code,[2] 2018 edition, excluding all appendixes, as published by the International Code Council, be and is hereby adopted as the fire code of the City of Elizabethton, in the State of Tennessee, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code, on file in the office of the fire marshal, are hereby referred to, adopted, and made a part hereof, as if fully set out in this municipal code, with the additions, insertions, deletions and changes, if any, prescribed in § 7-202 of this chapter. (Ord. #51-8, June 2015, as replaced by Ord. #54-35, Oct. 2018 ***Ch1_12-13-18***, and Ord. #57-10, March 2021 ***Ch2_03-11-21***)

7-202. Revisions. That the following sections are hereby revised:

Section 101.1. Insert: "City of Elizabethton"

Section 109. Delete and Add: "This Section shall be replaced by Title 12,

Chapter 12, of the Elizabethton Municipal Code".

Section 110.4. Insert: "Class B Misdemeanor"; "50.00 dollars"; "30 days"

Section 112.4. Insert : "50.00 dollars"; "50.00 dollars"

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[1]Municipal code reference
Building, utility and residential codes: title 12.

[2]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Section 202. Mobile Food Preparation Vehicles. Insert "trailers or any mobile enclosed structure" after "Vehicles" and before "that".

Section 307.1.1. Open Burning shall be prohibited within the City Limits of the City of Elizabethton.

Exceptions:

(1) A recreation fire, as defined by this Code, shall be allowed so long as atmospheric conditions or local circumstances do not make such fires hazardous. The Fire Department may extinguish any fire at any time they deem it necessary.

(2) Commercial businesses who must burn as a part of their business operations and are located in a non-residential area, unless atmospheric conditions or local circumstances make such fires hazardous. Businesses must obtain an annual Commercial Burn Permit from the Fire Marshal. Fires must be contained and separated from any combustible materials a distance necessary to prevent the accidental spread of fire. A means of extinguishing the fire must be readily accessible. The Fire Department may extinguish any fire at any time they deem it necessary.

Section 319. Insert new subsection "319 .11" Separation.

Mobile food preparation vehicles shall be separated from buildings, other mobile food preparation vehicles and combustibles by a minimum of 20 feet."

Section 503 .4. Insert: "for more than one (1) minute" after "parking of vehicles" and before " . "

Section 1103.5.3. Insert: "Upon adoption of this Ordinance". (Ord. #51-8, June 2015, as replaced by Ord. #54-35, Oct. 2018 ***Ch1_12-13-18***, amended by Ord. #55-31, Nov. 2019 ***Ch2_03-11-21***, and replaced by Ord. #57-10, March 2021 ***Ch2_03-11-21***)

7-203. Geographic limits. That the geographic limits referred to in certain sections of the 2018 International Fire Code are hereby established as follows:

Section 5704.2.9 .6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): "To be determined by the jurisdiction having authority."

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): "To be determined by the jurisdiction having authority."

Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): "To be determined by the jurisdiction having authority."

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): "To be determined by the jurisdiction having authority." (Ord. #51-8, June 2015, as replaced by Ord. #54-35, Oct. 2018 ***Ch1_12-13-18***, and Ord. #57-10, March 2021 ***Ch2_03-11-21***)

7-204. Severability. If any section, subsection, sentence clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this municipal code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-8, June 2015)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Composition and apparatus, etc.
7-302. Administration.
7-303. Records and reports.
7-304. Police powers.
7-305. Policy in regard to fire calls outside the city.

7-301. Composition and apparatus, etc. The fire department shall be composed of such subordinate officers and personnel and have such apparatus and equipment as the city council may from time to time direct and/or authorize upon the recommendation of the city manager. Timely recommendations shall be made to the council to insure that the department is at all times equipped with such apparatus, equipment, and personnel as may be required to maintain its efficiency in properly protecting life and property from fire. (2000 Code, § 7-301)

7-302. Administration. The chief shall formulate a set of rules and regulations to govern the fire department and shall be responsible to the city manager for the personnel, morale, and general efficiency of the department.

All subordinate officers and personnel of the department shall be accountable to the chief and to him only. (2000 Code, § 7-302)

7-303. Records and reports. The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel, and other information about the work of the department.

He shall report monthly to the city manager the condition of the apparatus and equipment; the number of fires during the month, their location and cause, the date of same, and the loss occasioned thereby; the number and purpose of all other runs made; and the apparatus and number of personnel making each fire or other run.

The chief shall make a complete annual report to the city manager within one (1) month after the close of the fiscal year. Such report shall include a summary of the monthly reports together with comparative data for previous years and recommendations for improving the effectiveness of the department. (2000 Code, § 7-303)

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[1]Municipal code reference

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

7-304. Police powers. All members of the fire department are hereby appointed as special policemen and are vested with such police powers as are reasonably necessary to enable them properly and efficiently to protect life and property from fire within the city. (2000 Code, § 7-304)

7-305. Policy in regard to fire calls outside the city. Fire calls outside the city will be answered only as authorized by a mutual aid agreement. (2000 Code, § 7-305)

CHAPTER 4

FIREWORKS

SECTION

7-401. Fireworks.
7-402. Penalties.
7-403.--7-412. Deleted.

7-401. Fireworks. It shall be unlawful for any person, firm, or corporation to possess, manufacture, store, distribute, offer for sale, sell at retail, or use or explode any fireworks, including all consumer fireworks that are defined as Division 1.4G materials.

The fire marshal shall permit the use of fireworks for public or private displays when all of the provisions of NFPA 1123, Code for Fireworks Display, 2014 edition, published by the National Fire Protection Association, and all provisions of Tennessee Code Annotated, § 68-104-211 are met and after all necessary permits have been issued. Every such use or display shall be handled by a competent operator approved by the fire marshal and shall be of such character and so located, discharged, or fired so as not to be hazardous to property or endanger any person. (2000 Code, § 7-401, as replaced by Ord. #53-20, Sept. 2017 ***Ch1_12-13-18***)

7-402. Penalties. Any violation of this chapter is a violation of city ordinance punishable by a fine of fifty dollars ($50.00) and an assessment of court costs of fifty dollars ($50.00). (2000 Code, § 7-402, as replaced by Ord. #53-20, Sept. 2017 ***Ch1_12-13-18***)

7-403.--7-412. Deleted. (2000 Code, § 7-412, as deleted by Ord. #53-20, Sept. 2017 ***Ch1_12-13-18***)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Definition of alcoholic beverages.
8-102. Consumption of alcoholic beverages on premises.
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
8-104. Annual privilege tax to be paid to the city clerk.
8-105. Concurrent sales of liquor by the drink and beer.
8-106. Advertisement of alcoholic beverages.
8-107. Retail liquor or package stores.

8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, as the same is defined in city code § 8-201. (2000 Code, § 8-101, as replaced by Ord. #60-9, April 2024 ***Ch4_12-11-25***)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by said code when such sales are conducted within the corporate limits of Elizabethton, Tennessee. It is the intent of the mayor and council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Elizabethton, Tennessee, the same as if said code sections were copied herein verbatim. (2000 Code, § 8-102)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in

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[1]State law reference
Tennessee Code Annotated title 57.

Tennessee Code Annotated, § 57-4-103, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Elizabethton General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or an association engaging in the business of selling at retail in the City of Elizabethton any alcoholic beverages for consumption on the premises where sold. (2000 Code, § 8-103)

8-104. Annual privilege tax to be paid to the city clerk. 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 Elizabethton shall remit annually to the city clerk 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. (2000 Code, § 8-104)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Elizabethton, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall qualify to receive a beer permit from the city. Note: Although an applicant may qualify, the beer board shall regulate the issuance of all beer licenses. (2000 Code, § 8-105)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (2000 Code, § 8-106)

8-107. Retail liquor or package stores. (1) Sale authorized. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store within the corporate limits of the City of Elizabethton, provided such retail license has been appropriately approved by the City of Elizabethton and the State of Tennessee, and such sales are made in compliance with applicable state and federal statutes, rules and regulations, as well as the provisions established in this chapter.

(2) License and certificate required. It shall be unlawful for any person, firm or corporation to sell alcoholic beverages at retail without first obtaining a license for such privilege in an off-premise liquor store through the

State of Tennessee Alcoholic Beverage Commission, and without obtaining a certificate of compliance for a specific store location by the Elizabethton City Council as required by Tennessee Code Annotated, § 57-3-208.

(3) License regulations. The requirements or restrictions established in Tennessee Code Annotated, §§ 57-3-204 through 57-3-210 apply to applicants for a retail liquor store license in Elizabethton, including but not limited to the following:

(a) No retail license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county except as specified in Tennessee Code Annotated, § 57-3-210(b)(1).

(b) No retailer or any employee shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time of the application, with the exception of such person whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. No license shall be issued to a retailer who within ten (10) years preceding the application has been convicted of any offense under the laws of the State of Tennessee or any other state in the United States prohibiting or regulating the sale, possession, transportation, storing, or manufacturing or otherwise handling of intoxicating liquors.

(c) No person shall have ownership in, or participate in, either directly or indirectly, the profits of any wholesale or retail liquor business licensed through Tennessee Code Annotated, unless the interest in such business and the nature, extent and character thereof shall appear on the application, or unless such interest is fully disclosed to the alcoholic beverage commission and is approved by it.

(d) No retailer or any employee thereof shall be a person under eighteen (18) years of age.

(4) License application. Any person, firm, or corporation desiring to sell alcoholic beverages at a retail liquor store and not for consumption on premises, shall make application to the Tennessee Alcoholic Beverage Commission (ABC) for a retailer's license. The following conditions apply:

(a) Conditions established in Tennessee Code Annotated, § 57-3-204 must be met including a one-time initial application fee of three hundred dollars ($300.00) or current application fee, an additional permit fee, as well as any applicable rules and regulations of the alcoholic beverage commission.

(b) The license application must be accompanied by a properly executed certificate of compliance from the City of Elizabethton.

(c) The license expires in twelve (12) months following the date of issuance. Each license must submit renewal applications annually to the ABC accompanied by the annual license fee.

(d) The applicant for a license must meet the public notice requirements established in sections 0100-03-.09(10) and (11) of the rules of the alcoholic beverage commission.

(5) Application for certificate of compliance. An applicant for a license shall first obtain a certificate of compliance from the City of Elizabethton, as provided in Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the city clerk. The application includes a request for a certificate of good moral character, as provided by Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the city clerk. The application includes a request for a certificate of good moral character, as provided by Tennessee Code Annotated, § 57-3-208, et seq. Applications shall include but not be limited to the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer or otherwise. In the event that a corporation, partnership, limited liability company, or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the City of Elizabethton.

(b) A statement that each applicant or member in the applicant group has been a bona fide resident of the State of Tennessee for at least two (2) years immediately preceding the date the application is filed.

(c) The names and addresses of at least three (3) residents of the City of Elizabethton or the State of Tennessee that have known each applicant for at least two (2) years.

(d) Occupation or business name and location of such business of applicant or persons in the applicant group, and length of time engaged in such occupation or business, including the name of the licensee and address of any other off-premise liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group members holding each interest.

(e) In the case where the applicant is a partnership, corporation, limited liability company or other such legally recognized entity, the application shall be accompanied by a copy of the partnership agreement, corporate charter, operations agreement or other such document as well as a breakdown of all partners, shareholders, members, etc. with their ownership percentages.

(f) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the retail liquor store.

(g) Certification that the applicant or applicant group or any employee, now intended or in the future, that will be employed to manage or assist in the operation of the retail liquor store has not been convicted of a felony within the ten (10) year period immediately preceding the date

of the application of any violation of any state or federal law, or of any violation of any municipal ordinance involving alcohol related offenses.

(h) Name of the retail liquor store proposed in the application and the zoning designation applicable to such location.

(i) Address of the retail liquor store proposed in the application.

(j) A site plan drawn to scale of not less than one inch (1") equals twenty feet (20') that includes the following information:

(i) The shape, size, and location of the lot where the retail liquor store is to be located including ingress and egress to the lot.

(ii) Off-street parking spaces and off-street loading/unloading area.

(iii) Ingress and egress to lot.

(iv) Location of all doors accessing the building with designation of public access to building and designation of any landscaping, walls, fencing or other such possible obstruction limiting visual access to building interior and entrances.

(v) Designation of zone(s) of lot and adjoining properties.

(vi) Owners of adjoining properties, designation of use, and name of business.

(vii) The identification of every parcel within one hundred feet (100') of the lot which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.

(viii) Lighting of building exterior and parking area.

(k) Certification by the applicant stating that the premises of the proposed retail liquor store are in full compliance with the distance requirements established in § 8-107(8)(a) of this chapter.

(l) The agreement of each applicant to comply with state and federal statutes, City of Elizabethton regulations governing retail liquor stores, and all state rules and regulations with reference to the sale of alcoholic beverages.

(m) Verification that the applicant has secured the location for the business at the location submitted in the application.

(n) A time schedule detailing any construction or renovation of the store building, improvements to grounds, and store opening date.

(o) The application form shall be signed and verified by each person who has any interest in the license either as owner, partner, stockholder, director, officer or otherwise.

(6) Application advertising requirements. Before a certificate of compliance application for a retail liquor store may be considered by the Elizabethton City Council, whether the application is for a transfer of an existing license to a new location or for a new license, the applicant must place at least one (1) advertisement, at his/her own expense, in a newspaper of general

circulation in the City of Elizabethton, a minimum of seven (7) days prior to the application being considered by the Elizabethton City Council with the published notice including the following information:

(a) Name and address of applicant;

(b) Nature and purpose of application;

(c) Location/address of store location;

(d) Date the application is proposed to be reviewed by the Elizabethton City Council.

This advertisement must be published for three (3) consecutive issues.

(7) Review and consideration of applications for certificate of compliance. Applications to the City of Elizabethton for a certificate of compliance needed to license a retail liquor store shall be submitted to the Elizabethton City Clerk. The city clerk shall review the documentation provided to see that all information requested has been submitted and appears to be complete. The city clerk will review materials submitted for compliance, and will to the extent possible, identify insufficient information. It is the responsibility of the applicant to provide all of the information required. An application shall not be deemed "filed" until it contains all of the information requested. After the initial review, a date shall be determined to send the full application to the Elizabethton City Council for consideration. The applicant must provide proper notification in an acceptable publication at least seven (7) days in advance of the meeting in which the Elizabethton City Council will consider the application.

(8) Restrictions on location of and access to retail liquor stores. No location for a retail liquor store shall be approved on any premise within the City of Elizabethton, except on premises that are:

(a) At least one hundred feet (100') from the nearest portion of any church, public or private school ground, day care, public playground or park, or public or recreational facility. For the purposes of measurement, the distance shall be determined from the center of the public entrance to the retail liquor store in a straight line the shortest most direct distance to the major entrance to the facilities and institutions listed. The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, and the future presence of any uses listed above in this subsection necessitating the one hundred foot (100') distance requirement shall not be grounds for revocation of a licensee or denial of a certificate if a valid license had been issued to any retail liquor store at the same location and the business has been in continuing operation since that date.

(b) Developed within a building in which the retail liquor store is only on the ground floor.

(c) Under normal circumstances a retail liquor store shall have one (1) entrance for use by the public. Circumstances may exist, like the premises being served by multiple public streets, or an on-premise liquor

store being attached to a large complex, in which the applicant may petition for a second public entrance. However, the Elizabethton Regional Planning Commission will have to recommend the second entrance, and in no case shall the retail liquor store have more than two (2) public entrances.

(9) Restrictions on issuance of certificate of compliance. No original or renewal certificate of compliance shall be issued for any location until:

(a) An application has been filed with the city clerk.

(b) All requirements to obtain a certificate have been met.

(c) A written certification by the applicant is submitted stating that the premises of the retail liquor store are in full and complete compliance with the distance requirements established in § 8-107(8)(a) of this chapter.

(d) The application shall be signed and verified by each person to have an interest in the retail liquor store either as an owner, partner, stockholder or otherwise.

(e) The application has been considered at a regular or called meeting of the Elizabethton City Council and approved by majority vote.

(10) Term of certificate of compliance. Once issued by the Elizabethton City Council, a certificate of compliance required by Tennessee Code Annotated, § 57-3-208 shall be valid for two (2) years. A new certificate, therefore, is required every other year, to be submitted to the ABC with application for the annual license renewal.

(11) Number of stores--adequate availability. For the purpose of determining whether alcoholic beverages are reasonably and generally available to the citizens and residents of the City of Elizabethton, there shall be no more than one (1) operating liquor store for each four thousand five hundred (4,500) residents of the City of Elizabethton. Based on the 2012 City of Elizabethton population of approximately fourteen thousand (14,000) residents, there will be no more than three (3) liquor stores within the City of Elizabethton.

(12) Full and accurate disclosure required. (a) It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail store license under this chapter, unless his/her interest in the business and the nature, extent and character thereof shall appear on the application for a certificate of compliance; or if the interest is acquired after the issuance of a license, unless it is fully disclosed to and approved by the Elizabethton City Council. Where such interest is owned by such a person on or before the application for any certificate, the burden shall be upon such person to see that this section is not violated, whether he/she signs or prepares the application, or whether the same is prepared by another, or if the interest is acquired after the issuance of the certificate, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(b) Misrepresentation of a material fact, or concealment of a material fact, required to be shown in the application for a license or certificate shall be a violation of this chapter. The Elizabethton City Council may refuse to issue a certificate if, upon investigation, the city finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the retail liquor store, or if the interest of any applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by any applicant concerning any matter related to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are part of the application.

(c) If the provisions of this section and chapter are alleged to have been violated, the Elizabethton City Council may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant(s) or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

(13) Regulation of retail sales. Retailers licensed under Tennessee Code Annotated, § 57-3-204 shall comply with the regulation of retail sales established in Tennessee Code Annotated, § 57-3-406 included but not limited to the following:

(a) Hours and days of operation. No retailer shall sell or give away or otherwise dispense any alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M. on Monday through Saturday. No retailer shall sell or give away alcoholic beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday each week.

(b) Sale during holidays. No retailer shall sell or give away alcoholic beverages on Thanksgiving Day, Christmas Day, New Year's Day, Independence Day (Fourth of July), and Labor Day.

(c) No pinball machine, music machine, or other amusement device shall be permitted in any liquor store.

(d) No alcoholic beverages shall be sold for the consumption on the premises of the retailer.

(e) Retail liquor stores shall only sell alcoholic beverages.

(f) The sale and delivery of alcoholic beverages at a retail liquor store shall be confined to the building premises of the licensee, and no curb service or drive-through service is permitted.

(14) License display. Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business display and post and keep displayed and posted, in the most conspicuous place in their premises, such license.

(15) Advertising/signage. Advertising by a licensee, and signs, displays, posters and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage

Commission, and/or the sign provisions and restrictions of the underlying zoning district as may be specified in the City of Elizabethton Sign and Zoning Ordinances.

(16) Transfer of license and certificate. The holder of a license for a retail liquor store may not sell, assign or transfer such license to any other person, and such license shall be good and valid only for the twelve (12) months after the same was issued. Except as expressly authorized, there shall be no transfer of any license from one location to another. An application for a retail liquor store license from the alcoholic beverage commission resulting from a change in ownership or store location shall require a re-submittal of an application for a certificate of compliance.

(17) Inspection fee levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the city, and to provide a means of enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) of the wholesale price of all alcoholic beverages sold by wholesalers to any licensed retail liquor store within the corporate limits of the City of Elizabethton. Collection of this inspection fee by wholesalers shall be undertaken under regulations established in Tennessee Code Annotated, §§ 57-3-501 through 57-3-503, including but not limited to the following:

(a) The inspection fee is imposed upon licensed retailers but is collected by wholesalers.

(b) The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages, and said fee may be added by the wholesaler to the invoice for alcoholic beverages sold to the licensed retailers.

(c) Each wholesaler making sales to retailers located within the City of Elizabethton city limits shall make monthly payments to the City of Elizabethton.

(d) Monthly payments shall be paid by the twentieth day of the month following which sales were made, and shall be accompanied with monthly reports that include the information required in Tennessee Code Annotated, § 57-3-503.

(e) Wholesalers collecting and remitting inspection fees to the City of Elizabethton shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of the inspection fees collected, and such reimbursement may be deducted and shown on the monthly report to the City of Elizabethton.

(f) Failure to collect and/or report and/or to pay the inspection fee collected by the day required shall result in a penalty of ten percent (10%) of the fee due, which shall also be paid to the City of Elizabethton.

(g) The City of Elizabethton has the authority to audit the records of wholesalers reporting sales to retail liquor stores in Elizabethton to determine the accuracy of reports.

(h) Nothing within § 8-107(16) herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the City of Elizabethton.

(i) The inspection fee levied in this chapter shall be in addition to any general gross receipts, sales and other general taxes applicable to the sale of alcoholic beverages, and shall not be in substitution for such taxes.

(18) Surrender of license if business discontinued. Whenever any licensee discontinues business for any reason, he/she shall immediately notify the alcoholic beverage commission and the city clerk in writing and surrender the license and certificate of compliance.

(19) Revocation procedures. Whenever the Elizabethton City Council finds that a licensee has been, or is, in violation of the Tennessee Code Annotated,, title 57, chapter 1, the rules and regulations of the alcoholic beverage commission, or the provisions of this chapter, the city council shall certify such violation(s) to the state alcoholic beverage commission, in such form as the commission requires. The alcoholic beverage commission shall have the responsibility for determining whether the offender's license shall be revoked. The Elizabethton City Council, upon determination of violations of state or local regulations governing the retail sale of alcoholic beverages may revoke the city issued certificate of compliance, and shall communicate said revocation to the alcoholic beverage commission for possible further action.

(20) Penalties. Any violation of the terms of this chapter and section may be punishable by a fine under the general penalty clause of the Elizabethton Municipal Code in addition to any other penalty herein provided, and in addition to the loss of license. Each separate occurrence shall constitute a separate violation. (Ord. #48-29, Dec. 2012, modified)

CHAPTER 2

BEER[1]

SECTION

8-201. Beverage board; creation; membership; authority to issue, revoke, and suspend beer permits; organization and procedures.
8-202. Permit required to sell, store, distribute, or manufacture beer; application for permit to be sworn to, etc.
8-203. Contents and filing requirements of application for permit.
8-204. No permits to be issued to anyone who has been convicted of any violation of intoxicating beverage laws within the last ten years.
8-205. City clerk to issue permit upon approval of board only to applicants of an existing business and payment of required fees.
8-206. Payment of fees; display of permits; sales by distributors, etc.; permits not transferable; permit required for each location; limitation on number of permits for each person.
8-207. Types of retail permits.
8-208. Constraints on issuance of permits.
8-209. Days and hours of sales regulated.
8-210. Distributors, etc. to be licensed by state, to comply with zoning laws, and to sell only to valid permit holders.
8-211. Sign restrictions.
8-212. Sales to persons under the legal age to purchase beer as set by state statute is prohibited.
8-213. Permit holders not to allow loitering or sales to intoxicated persons.
8-214. Certain non-conforming permittees allowed to continue.
8-215. Retailers or public conveyances not to deliver beer.
8-216. Privilege tax.
8-217. Premises constituting non-conforming uses not to be licensed.
8-218. Police inspections.
8-219. Credit sales to retailers prohibited.
8-220. No adjustments for shortages, etc., to be made by wholesalers except at time of delivery.

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[1]Municipal code references

Municipal offenses: title 11, chapter 1.

Wholesale beer tax: § 5-401.

State law reference

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

8-221. No gifts or price reductions by wholesalers.
8-222. All sales to be within licensed premises.
8-223. Violations and penalty.
8-224. Special event beer permit.

8-201. Beverage board; creation; membership; authority to issue, revoke, and suspend beer permits; organization and procedures. There is hereby created a board, which shall be known and designated as the "Beverage Board of the City of Elizabethton," hereinafter referred to in this chapter as the "board." Such board shall be composed of the seven (7) members of the city council.

It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store more than two (2) cases, distribute, and sell beer and other beverages of an alcoholic content of not in excess of as defined by Tennessee Code Annotated, § 57-5-101(b) as amended, hereinafter referred to as beer, to the persons and in the manner provided in this chapter.[1]

It is hereby declared that the sale, storage, manufacture, and distribution of beer in the city is a privilege, and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture, or distribute beer in the city, including the sole right to determine the suitability and approve the general appearance of the proposed structure.

The board is empowered to elect its own chairman and other officers, to make its own regulations with respect to meetings or hearings, and may deny the issuance of any permit or license whenever it determines that such issuance would be detrimental to public health, safety, or morals. The board may likewise suspend or revoke the permit and license of any licensee who violates any of the laws of the United States, the State of Tennessee, or the City of Elizabethton, or whenever it shall satisfactorily appear that the premises or business of any permittee or licensee is being maintained and operated in such manner as to be detrimental to public health, safety, or morals.

Where a permit or license is revoked, no new license or permit shall be issued to such permittee nor issued to any other applicant to permit the sale, storage, manufacture, or distribution of beer on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (2000 Code, § 8-201, as replaced by Ord. #60-09, April 2024 ***Ch4_12-11-25***)

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[1]State law reference
Tennessee Code Annotated, § 57-5-106.

8-202. Permit required to sell, store, distribute, or manufacture beer; application for permit to be sworn to, etc.[1] (1) It shall be unlawful for any person to sell, store more than two (2) cases, distribute, or manufacture beer within the city without having first obtained a permit and license as provided in this chapter.

(2) Before any person shall be authorized to sell, store more than two (2) cases, distribute, or manufacture beer, he shall make application to the board, upon a form prescribed by it, for a permit to do so.

(3) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate, or association.

(4) The permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to another owner and if the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

(5) The applicant must agree in his application to comply with all the laws of the United States, and of the State of Tennessee, and all ordinances of the City of Elizabethton, and said application shall be supported by an affidavit or oath that the facts therein stated are true. (2000 Code, § 8-202)

8-203. Contents and filing requirements of application for permit. The application shall contain the following:

(1) The name and address of the applicant;

(2) The name of the applicant's business;

(3) The location of applicant's business by street or other geographical description to permit an accurate determination of conformity with the requirements of this chapter;

(4) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption, or for off-premises consumption, or both of the foregoing. Any change in the type of permit shall require approval of the beverage board;

(5) A statement that the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license or permit was issued to such applicant;

(6) That no sale will be made to any person under the legal age to purchase beer as set forth by state statute; that the applicant will not permit minors or disorderly or disreputable persons, or persons heretofore connected with the violation of the liquor laws to loiter around the place of business; that no minor shall be employed in the direct sale, storage, manufacture, or distribution of beer;

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[1]State law reference
Tennessee Code Annotated, § 57-5-103.

(7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked;

(8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has been convicted of any violation of the law against prohibition, sale, manufacture, storage, distribution, usage, or transportation of intoxicating liquor or any crime involving moral turpitude with in the past ten (10) years preceding the filing of such application;

(9) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least five percent (5%) ownership interest in the applicant;

(10) Identity and address of a representative to receive annual tax notices and any other communication from the beverage board or its representative;

(11) That no brewer, manufacturer, distributor, or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on;

(12) A statement that the applicant is willing to be fingerprinted and is willing to be investigated by municipal, county, state, and federal law enforcement agencies concerning the applicant's background and record;

(13) An oath or affidavit by the applicant that the facts set forth in the application are true;

(14) Any applicant making false statements in the application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years;

(15) The application shall be submitted to the secretary of the beverage board not less than fifteen (15) days prior to the next meeting of the city council in order to allow a meeting of the beverage board and provide proper notice as required by law of such meeting. The applicant shall appear in person before the beverage board. (2000 Code, § 8-203, as amended by Ord. #60-09, April 2024 ***Ch4_12-11-25***)

8-204. <u>No permits to be issued to anyone who has been convicted of any violation of intoxicating beverage laws within the last ten years</u>. No permit shall be issued except to persons of good moral character who have not been convicted of any violations of the laws against manufacturing, selling, transporting, storing, distributing, illegally using or possessing intoxicating liquors or of selling or possessing beer illegally or of any crime involving moral turpitude, within (10) years of the date of application; nor shall any permit be issued to any firm, corporation, syndicate, joint stock company, or association, who have officers, stockholders, or employees who have had such convictions.

A permit holder must return a permit to the beverage board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on the termination of the business, change in ownership, relocation of the business or change of the business's name. Failure to notify the city clerk of any of these changes shall be grounds to cite permit holder to the beverage board to show cause why the permit should not be suspended or revoked. (2000 Code, § 8-204)

8-205. City clerk to issue permit upon approval of board only to applicants of an existing business and payment of required fees. Permits shall be approved or disapproved by the board only to applicants operating an existing business and if approved, a license shall be issued by the City Clerk for the City of Elizabethton, upon proof by the applicant that all permits have been obtained and that all required fees and privilege taxes have been paid and that the applicant has met the requirements of this chapter and the laws of the State of Tennessee and the United States of America. (2000 Code, § 8-205)

8-206. Payment of fees; display of permits; sales by distributors, etc.; permits not transferable; permit required for each location; limitation on number of permits for each person. All permit fees shall be paid annually in advance and shall not be subject to refund in whole or in part. All permit holders shall display and keep displayed their beer permits and beer licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(1) No manufacturer, distributor, or warehouseman shall sell to anyone except a holder of a valid beer permit.

(2) Permits shall not be transferable.

(3) A separate permit shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute, or sell beer, except where a permit holder operates two (2) or more restaurants or other businesses within the same building, the permit holder may in his discretion operate some or all such businesses pursuant to the same permit.

(4) Upon submission of an application there shall be collected an application fee of two hundred fifty dollars ($250.00). (2000 Code, § 8-206)

8-207. Types of retail permits. Permits for the retail sale of beer issued by the board shall be of two (2) types three (3) types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for the sale of beer to be consumed off the premises.

(3) Special event beer permit shall be issued for the sell and consumption of beer during special events as described in § 8-224. (2000 Code, § 8-207, as amended by Ord. #60-09, April 2024 ***Ch4_12-11-25***)

8-208. Constraints on issuance of permits. (1) All beer permits for the sale of beer in the City of Elizabethton, shall be issued in the discretion of the beverage board and the board shall issue permits to applicants for the sale of beer for on-premise consumption, off-premise consumption, or for both at the same location pursuant to one (1) permit.

(2) (a) Without regard to the number of permits issued, however, "on premise" permits shall be issued only to restaurants, clubs, microbreweries, breweries, pub bars, hotels, the Joe O'Brien Baseball Field, and the Bonnie Kate Theater. A restaurant shall be required to have a genuine capacity of and for not less than forty (40) persons and shall be required that the primary purpose of the business is the sale of food prepared and consumed on-site. A microbrewery, brewery, and pub bar will mean any microbrewery, brewery, or pub bar as defined in Elizabethton Municipal Code § 14-203 and shall be required to provide food stuffs for purchase or freely available to consumers during operational hours. A club will mean any club as defined in Tennessee Code Annotated, § 57-4-102 and by the Alcoholic Beverage Commission. A hotel will mean any hotel as defined by Tennessee Code Annotated, § 57-4-102.

(b) Notwithstanding the provisions of subsection (2)(a) above, the retail sale and consumption of beer shall be allowed at the Joe O'Brien Field at 804 North Holly Lane and the Bonnie Kate Theater located at 115 South Sycamore Street in the City of Elizabethton except for events involving Pre K through 12th grade institutions.

(c) No person shall be allowed to bring any alcoholic beverages, wine, high alcohol content beer, or beer into the Joe O'Brien Field or the Bonnie Kate Theater for the purposes of "brown bagging" or otherwise.

(d) No person shall be allowed to carry beer out of Joe O'Brien Field or the Bonnie Kate Theater. All beer allowed at Joe O'Brien Field or the Bonnie Kate Theater shall be consumed within the designated areas of the Joe O'Brien Field or the Bonnie Kate Theater.

(e) Any violation of this section shall be punishable by fine of not more than fifty dollars ($50.00) for each separate violation in addition to any other penalties authorized in this chapter.

(3) Off-premise permits shall be issued only to establishments operating as a grocery, microbrewery, brewery, pub bar, or convenience store. A grocery shall be defined, for the purpose of this chapter, to mean a business establishment whose primary business is the sale of food merchandise, household items, and health and beauty aids. A grocery shall derive the majority (more than fifty percent (50%)) of its gross sales from the retail sale of the items

set forth in the preceding sentence. A microbrewery, brewery, and pub bar will mean any microbrewery, brewery, or pub bar as defined in Elizabethton Municipal Code, § 14-203, and shall be sold in a properly sealed container. A convenience store shall be defined for the purpose of this chapter, to mean a business establishment where food stuffs and food merchandises are sold and may also be participating in the retail sale of gasoline or other petroleum products, but shall have an area for the sale of food stuffs and food merchandise of at least one thousand (1,000) square feet. A convenience store shall derive the majority (more than fifty percent (50%)) of its gross sales from the retail sale of the items set forth in the preceding sentence.

(4) No permit for the sale of beer for either "on-premise" consumption or "off-premise" consumption shall be issued to any person or establishment whose place of business is within one hundred feet (100') of any established church or school building. For the purpose of determining the one hundred foot (100') requirement as set forth herein, the distance shall be measured by straight line distance from the closest primary public entrance of the proposed site of the applicant's business to the closest public entrance of the church or school building. The applicant, if subject to this subsection, shall be required to submit a survey prepared by a Tennessee registered land surveyor, showing the distance to the nearest public entrance of the church or school. The survey as submitted shall become a part of the application and shall be subject to the provisions of chapters 1 through 2 of title 8 of the Elizabethton Municipal Code. Restaurants that are issued a license by the State of Tennessee permitting the legal sale of alcoholic beverages for consumption on premises as provided by law shall be exempt from the provision of the paragraph above.

(5) A temporary permit may be issued by the city clerk to allow the continued sale of alcoholic beverages at a location which presently has a valid permit. If the permit holder is moving to a new location, a temporary permit may be issued if all conditions of a permit are met. A temporary permit may be issued in order to allow a new application to be administratively processed and considered by the beverage board. The applicant for a temporary permit shall meet all requirements set forth in these ordinances, and the temporary permit shall not be issued for more than sixty (60) days. (2000 Code, § 8-208, as amended by Ord. #48-28, Dec. 2012, Ord. #53-25, Dec. 2017 ***Ch1_12-13-18***, Ord. #54-40, Dec. 2018 ***Ch1_12-13-18***, Ord. #55-11, March 2019 ***Ch2_03-11-21***, Ord. #57-27, Nov. 2021 ***Ch3_02-08-24***, and Ord. #60-09, April 2024 ***Ch4_12-11-25***)

8-209. <u>Days and hours of sales regulated</u>. It shall be unlawful for any person to sell beer between the hours of 3:00 A.M. until 8:00 A.M. Monday through Saturday, or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday; however, pub bars located within the city limits of the City of Elizabethton may not sell beer after 11:00 P.M. (2000 Code, § 8-209, as replaced by Ord. #55-6, Feb. 2019 ***Ch2_03-11-21***)

8-210. Distributors, etc. to be licensed by state, to comply with zoning laws, and to sell only to valid permit holders. (1) In addition to other requirements set out in this chapter, all distributors, wholesalers, warehousemen, and manufacturers shall be duly licensed under the law to do business in the State of Tennessee.

All distributors, wholesalers, warehousemen, and manufacturers of beer having a place of business within the corporate limits of the City of Elizabethton shall locate same in areas designated and zoned for manufacturing under the laws and ordinances of the City of Elizabethton.

(2) It shall be unlawful within the corporate limits of the City of Elizabethton for any distributors, wholesalers, warehousemen, and manufacturers of beer or for any of their salesmen or representatives to sell or deliver beer en route to or from delivery vehicles to any person or place other than holders of valid retail beer permits; and it shall be the duty of such all distributors, wholesalers, warehousemen, and manufacturers, their salesmen or representatives, to ascertain whether or not such person or place has been issued a valid beer permit by the City of Elizabethton. (2000 Code, § 8-210)

8-211. Sign restrictions. It shall be unlawful for any person authorized to sell beer, for either on the premises consumption or off the premises use, to erect or maintain more than one (1) advertising or display sign upon the outside of the building or in a window. Said sign may use the word "beer" or the name of any brand of beer. Said advertising or display sign shall not exceed four inches (4") in height and eighteen inches (18") in length, and the sign shall be placed parallel with and on the building or in a window. (2000 Code, § 8-211)

8-212. Sales to persons under the legal age to purchase beer as set by state statute is prohibited. It shall be unlawful for any person engaged in either "on-premise" or "off-premise" sale of beer to make or permit to be made any sales of beer to persons under the legal age to purchase beer as set by state statute. It shall be unlawful for any person to purchase beer for the purpose of selling or giving same to anyone not entitled to purchase beer as set by state statute, and any such purchase of beer is subject to fine and community service as set by state statute. (2000 Code, § 8-212)

8-213. Permit holders not to allow loitering or sales to intoxicated persons. It shall be unlawful for any permit holder to allow persons to loiter around the place of business, and it shall be unlawful for any permit holder to make, permit, or allow to be made any sale of beer to any person who is intoxicated. (2000 Code, § 8-213)

8-214. Certain non-conforming permittees allowed to continue. Notwithstanding any provision to the contrary, any place, premises or location which has previously been issued a valid and lawful permit for the sale of beer

for either on- or off-premises consumption, but which place, premises or location cannot meet the current provisions and requirements of chapters 1 through 2 of title 8 of the Elizabethton Municipal Code, a new owner, proprietor or licensee who is an immediate successor in interest to said place, premises or location shall be issued a new permit for the sale of beer although said place premises or location does not conform to the current provisions of chapters 1 through 2 of title 8 of this code, provided the issuance of said permit is not detrimental to the public health, safety or morals and the applicant meets the individual requirements set forth in chapters 1 through 2 of title 8 of the Municipal Code of Elizabethton, Tennessee. (2000 Code, § 8-215)

8-215. Retailers or public conveyances not to deliver beer. It shall be unlawful for any holder of a retail permit or license to sell beer, or to deliver beer away from the premises designated and described in the license. It shall further be unlawful for any owner or operator of a public conveyance to purchase or deliver beer for or to any person not presently therein. (2000 Code, § 8-216)

8-216. Privilege tax.[1] There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer a privilege tax of one hundred dollars ($100.00). The permit holder shall remit the privilege tax to the city clerk on January 1, 1994, and each successive January 1 thereafter. The city clerk shall mail notice of the tax to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to each permit holder at the address specified in the permit application. If a permit holder does not pay the tax by January 31, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the permit shall be void. 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. (2000 Code, § 8-217)

8-217. Premises constituting non-conforming uses not to be licensed. No retail permit or license shall be issued to any person to sell beer from or any place, premises or location which constitutes non-conforming use under the zoning laws and ordinances of the City of Elizabethton in effect at the time of application for such permit or license. However any place, premises or location originally lawfully licensed to sell beer prior to the enactment of the provisions of the zoning ordinance but which place, premises or location

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[1]Municipal code reference
Privilege taxes: title 5.

presently does not conform with the current provisions of the zoning ordinance may be issued a new permit or license to sell beer and such non-conforming use allowed to continue provided it meets the requirements of the Elizabethton Zoning Ordinance[1] governing the continuance of non-conforming uses and the individual applicant meets the requirements set forth in chapters 1 through 2 of title 8 of the Municipal Code of Elizabethton, Tennessee. (2000 Code, § 8-218)

8-218. Police inspections. It shall be the duty of the Police Department of the City of Elizabethton or of any special police officers appointed by the city manager to inspect the place of business and premises of the holders of permits and licenses under this chapter, and it shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time that such place is open for business. (2000 Code, § 8-219)

8-219. Credit sales to retailers prohibited. In order to collect the wholesale beer tax efficiently, all sales of beer by wholesalers to retailers or any other person, except sales to duly licensed wholesalers, shall be for cash only. The intent of this section and provision is that wholesale sale of beer and delivery and payment therefor shall be a simultaneous transaction, and any maneuver, device, or method of extending credit is expressly prohibited. (2000 Code, § 8-220)

8-220. No adjustments for shortages, etc., to be made by wholesalers except at time of delivery. In order accurately to determine the tax to be paid, no wholesaler shall make any reduction or adjustment for shortages or broken bottles, including chips and flats, except at the time of sale and delivery. All beer shall be inspected and accepted by the retailer or any other person at the time of delivery and no adjustment or refund for merchandise damage, breakage, or shortage shall be made by any wholesaler subsequent to the time of delivery. (2000 Code, § 8-221)

8-221. No gifts or price reductions by wholesalers. In order to determine the exact amount of tax and to facilitate the collection thereof, no wholesaler shall make any gift of beer or any other type of gift to any retailer, nor shall any deal be made with the retailer or any person whereby the wholesale price of beer shall be reduced below the list price as an inducement to said retailer or any other person to make larger purchases. (2000 Code, § 8-222)

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[1]Municipal code reference
Zoning ordinance: title 14, chapters 2--8.

8-222. <u>All sales to be within licensed premises</u>. It shall be unlawful for any on-premise permittee to sell beer anywhere except within the confines of the property boundary or the area defined in a sidewalk encroachment permit used for the sale or purchase of beer. It shall be unlawful for any off-premise permittee to sell beer anywhere except within the confines of the building used for the sale or purchase of beer. Drive-in windows are expressly prohibited. (2000 Code, § 8-223, as replaced by Ord. #54-40, Dec. 2018 ***Ch1_12-13-18***)

8-223. <u>Violations and penalty</u>. 1. <u>Responsible vendor</u>. A permit holder who is a responsible vendor in good standing with the Tennessee Alcoholic Beverage Commission shall only be subject to a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sale of beer to a minor, who is defined as anyone less than twenty-one (21) years of age, or for any other violation of this chapter.

Permanent revocation of a beer permit may only be applied when the permit holder has at least two (2) violations within a twelve (12) month period.

2. <u>All other vendors</u>. A permit holder violating any provisions of this chapter shall be cited to the beverage board for a suspension or revocation of the permit. The beverage board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars ($2,500.00) for each offense of permitting any sale to an individual under the legal age to purchase intoxicating beverages; or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the permit 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. The payment of a civil penalty shall not be deemed as a waiver of the permit holder's right to seek review by statutory writ of certiorari. (2000 Code, § 8-224)

8-224. <u>Special event beer permit</u>. A permit to sell beer shall be obtained from the Elizabethton Beverage Board for special events not to exceed two (2) days. An applicant for such special event permit must meet all other requirements for a beer permit except such an event may be permitted without being located within a permanent structure and shall not be required to comply with § 8-203 or § 8-208. A special event permit fee is set at one hundred dollars ($100.00) per application, per event and shall be paid upon application of such permit. A special event permit holder shall not be required to pay the privilege tax set out in § 8-216. Special event permits may only be issued to bona fide charitable, non-profit, or political organizations unless the applicant is a business which currently holds a valid on-premise beer permit. Bona fide charitable, non-profit, or political organizations are required to provide adequate documentation that the server of the beer has an active, valid beer permit with

the City of Elizabethton. Special events shall be hosted on the premise of the applicant or within the Elizabethton Main Street District. Special event permits shall be limited to no more than six (6) times per year, per applicant. (as added by Ord. #56-11, April 2020 ***Ch2_03-11-21***, and replaced by Ord. #60-09, April 2024 ***Ch4_12-11-25***)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

1. PEDDLERS, ETC.
2. TRAVELING SHOWS.
3. FORTUNE TELLERS.
4. HELICOPTERS AND HELIPORT OPERATIONS.
5. CABLE TELEVISION.
6. SPECIAL EVENTS.

CHAPTER 1

PEDDLERS, ETC.[2]

SECTION

9-101. Permit required.
9-102. Exemptions.
9-103. Application for permit.
9-104. Issuance or refusal of permit.
9-105. Appeal.
9-106. Bond.
9-107. Loud noises and speaking devices.
9-108. Use of streets.
9-109. Exhibition of permit.
9-110. Police officers to enforce.
9-111. Revocation or suspension of permit.
9-112. Reapplication.
9-113. Expiration and renewal of permit.

9-101. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the

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[1]Municipal code references
Building, plumbing, wiring and residential regulations: title 12.
Liquor and beer regulations: title 8.
Noise reductions: title 11, chapter 2.
Zoning: title 14, chapters 2--8.

[2]Municipal code reference
Privilege taxes: title 5, chapter 3.

provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (2000 Code, § 9-101)

9-102. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations. (2000 Code, § 9-102)

9-103. Application for permit. Applicants for a permit under this chapter must file with the chief of police a sworn written application containing the following:

(1) Name and physical description of applicant;

(2) Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;

(3) A brief description of the nature of the business and the goods to be sold;

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

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

(6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;

(7) A recent photograph of the applicant approximately two inches (2") square showing the head and shoulders of the applicant in a clear and distinguishing manner;

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

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

(10) The last cities or towns, not to exceed three (3), where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities;

(11) At the time of filing the application, a fee of fifty-five dollars ($55.00) shall be paid to the city to cover the cost of investigating the facts stated therein. Twenty-five dollars ($25.00) of these funds shall be deposited in the police equipment fund and the remaining thirty dollars ($30.00) of these

funds shall be deposited into the City of Elizabethton General Fund. (2000 Code, § 9-103, as amended by Ord. #45-5, June 2009)

9-104. Issuance or refusal of permit. (1) Upon receipt of each application, the chief of police shall immediately institute an investigation of the applicant's moral reputation and business responsibility and shall endorse the application with his findings within seventy-two (72) hours after it has been filed by the applicant.

(2) If as a result of such investigation, the applicant's moral reputation and/or business responsibility is found to be bad, the chief shall endorse on such application his disapproval and his reasons for the same. The chief of police shall thereupon notify the applicant that his application is disapproved and that no permit will be issued.

(3) If as a result of such investigation, the moral reputation and business responsibility of the applicant are found to be good, the chief shall endorse his approval on the application. Then, upon payment of all applicable privilege taxes,[1] the chief of police shall deliver to the applicant his permit. The chief of police shall file with the city clerk a record of all permits issued or denied and the city clerk shall maintain this as a permanent record. (2000 Code, § 9-104)

9-105. Appeal. Any person aggrieved by the action of the chief of police in the denial of a permit shall have the right to appeal to the city manager. Such appeal shall be taken by filing with the city clerk within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal, and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (2000 Code, § 9-105)

9-106. Bond. Every permittee shall file with the police chief a surety bond running to the city in the amount of five hundred dollars ($500.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of Elizabethton and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for

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[1]Municipal code reference
Privilege taxes: title 5, chapter 3.

and applied according to the representations of the permittee and further guaranteeing to any citizen of the city doing business with said permittee, that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (2000 Code, § 9-106)

9-107. Loud noises and speaking devices.[1] No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (2000 Code, § 9-107)

9-108. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (2000 Code, § 9-108)

9-109. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (2000 Code, § 9-109)

9-110. Police officers to enforce. It shall be the duty of all police officers to see that the provisions of this chapter are enforced. (2000 Code, § 9-110)

9-111. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city council, after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit;

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[1]Municipal code reference
Noise reductions: title 11, chapter 2.

(b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;

(c) Any violation of this chapter;

(d) Conviction of any crime or misdemeanor;

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

(2) Notice of the hearing for revocation of a permit shall be given by the city clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest, the city manager may suspend a permit pending the revocation hearing. (2000 Code, § 9-111)

9-112. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (2000 Code, § 9-112)

9-113. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires. Permits issued to permittees who are not subject to a privilege tax shall be issued for a period of thirty (30) days and may be renewed upon the payment of a new permit fee if there have been no violations of the permit. (2000 Code, § 9-113)

CHAPTER 2

TRAVELING SHOWS[1]

SECTION

9-201. Required to post liability bond or insurance.
9-202. Permit required.

9-201. Required to post liability bond or insurance. It shall be unlawful for any person, firm, or corporation to set up and/or show or exhibit any circus, menagerie, carnival, or any other similar entertainment or traveling show within the corporate limits of the City of Elizabethton without first posting with the city clerk a one million dollar ($1,000,000.00) public liability bond or insurance policy and paying all applicable privilege taxes.[1] (2000 Code, § 9-201)

9-202. Permit required. It shall be unlawful for any person, firm or corporation to set up and/or show or exhibit any circus, menagerie, carnival, or any other similar entertainment or traveling show within the corporate limits of the City of Elizabethton without first obtaining a permit therefor from the city clerk. The permit fee shall be ten dollars ($10.00) per day for each traveling show and such permit must be displayed by the permit holder at all times said permit holder is doing business within the corporate limits of the City of Elizabethton. (2000 Code, § 9-202)

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[1]Municipal code reference
Privilege taxes: title 5, chapter 3.

CHAPTER 3

FORTUNE TELLERS

SECTION

9-301. Fortune telling business prohibited.
9-302. Clerk not to issue privilege license for.

9-301. Fortune telling business prohibited. It shall be unlawful for any person, firm, or corporation to engage in fortune telling or palmistry for profit within the City of Elizabethton, Tennessee, the same being detrimental to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the city. (2000 Code, § 9-301)

9-302. Clerk not to issue privilege license for. The City Clerk of the City of Elizabethton, Tennessee, is prohibited from issuing any privilege license for fortune telling or palmistry, or from collecting any privilege tax for such item. (2000 Code, § 9-302)

CHAPTER 4

HELICOPTERS AND HELIPORT OPERATIONS

SECTION

9-401. Definitions.
9-402. Compliance with Federal Aviation Agency and Civil Aeronautics Board regulations and standards.
9-403. Minimum altitude for helicopter flight.
9-404. Permit to operate heliport or helistop required; application; issuance; terms and conditions.
9-405. Permit revocation.
9-406. Insurance requirements.
9-407. Compliance with safety and fire prevention standards.
9-408. Area and location of heliports and helistops.
9-409. Prohibited acts generally.
9-410. Violations and penalty.

9-401. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Helicopter." Any rotorcraft which depends principally for its support and motion in the air upon the lift generated by one (1) or more power driven rotors, rotating on substantially vertical axes.

(2) "Heliport." Any area of land or water or any structural surface designated, used, or intended to be used for the landing or takeoff of helicopters and any appurtenant areas, facilities, structures, or buildings which are designed, used, or intended to be used in the operation or maintenance of the heliport or in the service or maintenance of helicopters.

(3) "Helistop." Any area of land or water or any structural surface designed, used, or intended to be used for the landing or takeoff of helicopters but without any appurtenant area, facility, structure, or building designed, used, or intended for use in the operation or maintenance of the helistop or in the service or maintenance of helicopters.

(4) "Obstruction clearance plane." A plane leading upward and outward from the heliport at an angle compatible with the flight characteristics of the helicopter through which no obstructions protrude. (2000 Code, § 9-401)

9-402. Compliance with Federal Aviation Agency and Civil Aeronautics Board regulations and standards. The establishment of any heliport or helistop and the operation and flight of helicopters within and above the corporate limits of the city shall at all times comply and be in conformity with at least the minimum of all pertinent regulations and standards promulgated from time to time by the Federal Aviation Agency or Civil

Aeronautics Board, with particular reference to applicable federal air regulations, civil air regulations, advisory circulars or successor publications. (2000 Code, § 9-402)

9-403. Minimum altitude for helicopter flight. Except when necessary for takeoff or landing, no person may operate a helicopter below the following altitudes:

(1) Generally. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with the routes, altitudes, and other directions and regulations specifically prescribed for helicopters by any rule or ordinance pertaining to the same.

At no time shall a helicopter be below five hundred feet (500') without special permission granted by the city manager pursuant to authority and for cause described in § 9-409 hereof.

(2) Over congested areas. Over any congested area of the city or over any open air assembly of persons, an altitude of one thousand feet (1,000') above the highest obstacle within a horizontal radius of two thousand feet (2,000') of the helicopter.

(3) Over other than congested areas. An altitude of five hundred feet (500') above the surface of open fields or areas upon which there are no trees, buildings, or other obstacles; provided, however, that the helicopter shall not be operated closer than five hundred feet (500') to any person, vehicle, vessel, tree, tower, or structure. (2000 Code, § 9-403)

9-404. Permit to operate heliport or helistop required; application; issuance; terms and conditions. No heliport or helistop shall be established or used unless an application for the establishment of the same shall have first been filed in writing with and approved by the city council. Such application shall contain a description of the proposed location, dimensions, obstruction clearance planes, proximity and height of nearest buildings, trees, towers or other structures, characteristics of the immediate area of such heliport, and such other information as the city council may require.

If the city council finds and determines that the public safety and convenience will be preserved and a nuisance or other burdensome condition will not be created and that the public interest will not be adversely affected by the establishment and use of a heliport or helistop at such site and under such conditions and that such use of such site will be in accord with pertinent zoning regulations, it may issue a permit for the establishment and use of such heliport or helistop and the operation of helicopters to and from the same. The city council may impose such terms and conditions in the issuance of such permit as it determines to be necessary in the promotion of the public safety, convenience, health, and welfare.

No heliport or helistop shall be established or used unless such permit therefor has been granted under the provisions hereof and the required insurance has been issued and is in effect as elsewhere required by this chapter. (2000 Code, § 9-404)

9-405. Permit revocation. In addition to any other remedies, the city council shall have the right and authority to revoke any permit which may have been issued to establish and operate a heliport or helistop within the city upon a finding, after notice, that any provisions and requirements of this chapter have been violated or that the public liability and property damage insurance required to be carried at all times by the permittee has been canceled or for any reason has ceased to be in full force and effect or if the operations at the heliport or helistop are performed in such a manner as to become unduly hazardous or to constitute a nuisance or create conditions which the city council may find to be contrary to the public safety, health, convenience, and welfare. Before any such permit may be revoked, however, notice of at least ten (10) days is to be given to the permittee and an opportunity to be heard before the city council upon any charges shall be given to such permittee. (2000 Code, § 9-405)

9-406. Insurance requirements. As a condition precedent to the issuance of a permit to establish and use a heliport or helistop, the applicant for such permit shall first secure public liability and property damage insurance in an insurance company licensed and authorized to do business in the state in limits of not less than two hundred fifty thousand dollars ($250,000.00) for personal injuries or death occasioned to one (1) person, and, subject to that limitation for one (1) person, insuring against injuries or death in any one (1) accident in limits of at least five hundred thousand dollars ($500,000.00) and for property damages the sum of five hundred thousand dollars ($500,000.00) for any one (1) accident; such applicant shall cause a certificate to be issued by such insurance company certifying that such policies, as herein required, have been issued and are in force and effect. Such certificates of insurance shall be filed from time to time with the city clerk at the city hall. Before such policy can be canceled or substantially altered, advance written notice thereof of at least ten (10) days shall be furnished to the city manager. Provided, however, that this section shall not apply to the United States of America or any military branch thereof nor shall this section apply to the state, the Tennessee National Guard, or any branch thereof. (2000 Code, § 9-406)

9-407. Compliance with safety and fire prevention standards.[1] As a further condition precedent to the issuance of a permit to establish and use a

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[1]Municipal code reference
Fire prevention: title 7.

heliport or helistop and to land and takeoff helicopters from such heliport or helistop, the applicant for such permit shall first secure written certification from the city manager or his designee that the heliport or helistop being considered complies with all safety and fire prevention standards necessary for the safety of the operation and adjacent properties and with the other provisions contained in § 9-404. (2000 Code, § 9-407)

9-408. Area and location of heliports and helistops. The minimum dimension of the area which describes an approved heliport or helistop shall be equal to not less than one and one-half (1 1/2) times the rotor or rotors diameter of the helicopter.

Approved heliports and helistops shall be so located that at least two (2) obstruction clearance planes are available which are compatible with the flight characteristics of the helicopter, at least ninety degrees (90°) disposed. Obstruction clearance planes shall be selected with due regard to the safety and convenience of persons and to the safety of property on the surface. (2000 Code, § 9-408)

9-409. Prohibited acts generally. It shall be unlawful to operate a helicopter within or above the corporate limits of the city or to operate a heliport or helistop within such corporate limits:

(1) In a negligent or reckless manner so as to endanger the lives or property of the operator or others.

(2) When the operator of such helicopter is under the influence of intoxicating beverages, drugs, barbiturates or other stimuli or depressants.

(3) In violation of any of the provisions set forth in § 9-403.

(4) Unless there is then outstanding and in full force and effect a valid airworthiness certificate issued for such helicopter by the Federal Aviation Agency of the United States or by the Civil Aeronautics Board or both.

(5) Unless the operator flying such helicopter shall then and there have a valid airman's certificate in full force and effect with the appropriate aeronautical ratings issued by the Federal Aviation Agency of the United States or Civil Aeronautics Board or both.

(6) After the permit to do so has been revoked.

(7) To or from any property or place within the city other than a heliport or helistop in such location with such dimensions and obstructions clearance planes and such other safety provisions as comply with the federal air regulations of the United States and the terms and conditions set forth in the permit issued by the city council as hereinabove provided; provided, however, that this provision may be varied by the city manager in emergencies in which helicopter operations at places other than at an approved heliport or helistop are necessary in connection with the immediate extending of help because of a disaster or civil disturbance or in performing an emergency errand of mercy or when the chief of police or sheriff of the county certifies to the city manager that

the use of such helicopter in a special flight operation is urgent and immediately necessary in aiding law enforcement or where there exists a special and urgent necessity for the use of a helicopter at a place other than a heliport or helistop in the preservation of the public peace, health, safety, and welfare; but in no case, emergency or otherwise, shall such helicopter be operated in violation of any federal air regulations of the United States or upon the property of any person except after having first obtained the permission and consent of such person owning or in control of such premises that the same may be so used. (2000 Code, § 9-409)

9-410. Violations and penalty. Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined in accordance with the general penalty clause for this code. (2000 Code, § 9-410)

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of Elizabethton and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of Elizabethton and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1] (2000 Code, § 9-501)

[1]Ordinances containing complete details relating to the cable television franchise agreements and any amendments are available in the office of the city clerk.

CHAPTER 6

SPECIAL EVENTS

SECTION

9-601. Purpose and authority.
9-602. Permit requirements.
9-603. Application.
9-604. Insurance.
9-605. Approval standards.
9-606. Approval conditions.
9-607. Permit fee.
9-608. Exemptions.
9-609. Applicability of other laws and ordinances.
9-610. Enforcement.
9-611. Severability.

9-601. Purpose and authority. This chapter is adopted to promote the public health, safety, welfare and convenience of the residents of Elizabethton by regulating special events within the city. By requiring a permit for each event, proper coordination of public services is ensured and overburdening of local infrastructure is prevented. (Ord. #48-14, Aug. 2012)

9-602. Permit requirements. No circus, carnival, fair, exhibit, menagerie, entertainment, concert, parade or similar activity shall be conducted outdoors or in temporary structures in the City of Elizabethton unless a special event permit has been obtained from the city council in accordance with this chapter. Events with fewer than three hundred (300) participants (including staff, volunteers, attendees, etc.) are not required to obtain a special event permit. (Ord. #48-14, Aug. 2012)

9-603. Application. (1) An application for a special event permit, which may be for a series of activities undertaken by a single permittee, under the provisions of this chapter should be filed with the Elizabethton City Manager at least forty-five (45) days before the date set for the event. (Although a late application may be considered, the application being late makes it more difficult to pass those approval standards requiring planning and coordination with city staff.) Each event will require a separate permit.

(2) Application for a special event permit shall include:

(a) The name, address and telephone number of the event sponsor;

(b) If the permittee is not the owner of the premises where the event is to take place, the name of the owner shall be given and the owner's consent to the event must be attached to the application;

(c) A site plan indicating location, layout, state and local highways, entrances and exits, traffic flow patterns, parking and land uses of the surrounding area;

(d) The intended dates and hours of operation and the number of days that the event will be conducted;

(e) The maximum total number of people anticipated including staff, volunteers, attendees, etc. and provisions for accommodating the total;

(f) Description of the event;

(g) Details as to what arrangements have been made to protect the public health, safety, welfare and convenience during the event including arrangements for traffic control, crowd control and sanitation;

(h) Provisions for food and beverage, if any; and

(i) Other information deemed necessary by the city council or city manager.

(3) The city council, at an official meeting, may approve, approve with conditions/modifications, or deny each application upon consideration of the approval standards set forth in § 9-605. Prior to any action, the council may cause the application to be reviewed by city departments including, but not limited to, police, fire, rescue and sewer. (Ord. #48-14, Aug. 2012)

9-604. Insurance. To protect the city and the taxpayers from assuming liability for injuries and/or damages that may occur during a special event, proper insurance is required. The minimum standards for proper insurance include:

(1) A policy is obtained for or by the permittee to cover the special event;

(2) The policy names the City of Elizabethton as an additional insured;

(3) A certificate of insurance is mailed or electronically transmitted directly to the City of Elizabethton from the insurance agency/broker/ underwriter;

(4) The insurance amount is one million dollars ($1,000,000.00) or the current limit of municipal tort liability in the State of Tennessee, whichever is higher; and

(5) Food vendors and inflatables operators participating in the event must be individually insured with the same requirements (subsections (1)--(4) above). (Ord. #48-14, Aug. 2012)

9-705. Approval standards. Prior to the issuance of any permit under this chapter, the city council shall determine that the proposed activity satisfies the following standards:

(1) The proposed use is in conformance with any applicable city ordinances including the Elizabethton Zoning Regulations;

(2) The proposed activity will not result in undue adverse traffic congestion and unsafe conditions regarding the use of public roads;

(3) The proposed activity will not present or create a threat to the safety of persons or property because of fire, explosion or other hazard;

(4) The proposed activity will not create unhealthy conditions regarding water supply, sewage disposal or solid waste disposal;

(5) The proposed activity will not interfere with the use of neighboring property for its customary use by the creation of noise, dust, noxious odors, lighting or other activities which extend beyond the boundary of the activity;

(6) The proposed activity will not overburden the public infrastructure of the city. Special attention shall be given to the cumulative impacts of other activities which may be occurring at the same time; and

(7) The proposed activity will not have an adverse effect on the public health, safety, welfare and convenience of the residents of the City of Elizabethton. (Ord. #48-14, Aug. 2012)

9-606. Approval conditions. When issuing a permit under this chapter, the city council may attach such reasonable conditions as they may deem appropriate to mitigate or eliminate any impacts reviewable under the approval standards set forth above. Such conditions may include but are not limited to:

(1) All food or drink vendors must have a combination fire extinguisher (Class A, B, C);

(2) Food vendors that produce grease laden vapors must have a Class K fire extinguisher in addition to the combination fire extinguisher;

(3) Establishing specific hours for the proposed use;

(4) Establishing noise limits;

(5) Requiring the provision of traffic control personnel at no cost to the city;

(6) Requiring the provision of crowd control and medical personnel at no cost to the city;

(7) Requiring the provision of fire fighting equipment and personnel at no cost to the city;

(8) Requiring the posting of security bonds or escrow accounts to ensure compliance with applicable ordinances and permit conditions;

(9) Requiring that trash and litter on public streets attributable to the proposed activity be collected and removed at no cost to the city;

(10) Restricting or prohibiting the consumption of alcoholic beverages in connection with any regulated activity; and

(11) Prohibiting the sale of admission or seating tickets in excess of the established capacity of the event area. (Ord. #48-14, Aug. 2012)

9-607. Permit fee. That fee for the granting of any permit shall be five dollars ($5.00) for each day of operation for any single event. The fee for a

permit shall be paid at the time of filing the application. In the event that the application is rejected, the fee shall be refunded to the applicant. (Ord. #48-14, Aug. 2012)

9-608. Exemptions. Activities conducted by schools licensed by the state department of education and/or churches, on school or church grounds, are exempt from the requirements to obtain a permit and pay a permit fee. (Ord. #48-14, Aug. 2012)

9-609. Applicability of other laws and ordinances. The permit required under this chapter shall not replace or eliminate any requirement to obtain approval under any other applicable laws or ordinances. (Ord. #48-14, Aug. 2012)

9-610. Enforcement. (1) The city manager may revoke a permit issued under this chapter for failure to comply with any conditions contained in such permit, or for any disturbance of the public peace or for occurrences detrimental to the public health.

(2) Violation of this chapter shall constitute a misdemeanor and may be punishable by a fine of fifty dollars ($50.00) per week, or part thereof, that the violation continues or imprisonment for a term not to exceed one (1) year.

(3) In addition to enforcement as provided above, the city manager may institute an action in the name of the city council to obtain injunctive or other appropriate relief. (Ord. #48-14, Aug. 2012, modified)

9-611. Severability. If any section, subsection, or any part thereof of this chapter, is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. (Ord. #48-14, Aug. 2012)

TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS AND CATS.
3. BIRD SANCTUARY.

CHAPTER 1

IN GENERAL

SECTION
10-101. Running at large prohibited.
10-102. Keeping near a residence or business restricted.
10-103. Hogs prohibited within two hundred feet of a residence, etc.
10-104. Pen or enclosure to be kept clean.
10-105. Adequate food, water, and shelter, etc., to be provided.
10-106. Keeping in such manner as to become a nuisance prohibited.
10-107. Seizure and disposition of animals running at large.
10-108. Storage of feeds.
10-109. Inspections and orders by the health officer.
10-110. Animals causing unsanitary conditions.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (2000 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence or place of business without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. Any person aggrieved by the health officer's decision in such case may appeal the same to the city council. (2000 Code, § 10-102)

10-103. Hogs prohibited within two hundred feet of a residence, etc. It shall be unlawful for any person to maintain or keep any hog or hog pen or other place for the confinement of hogs within two hundred feet (200') of any residence or dwelling house within the corporate limits since to do so would be

detrimental to the health, morals, comfort, safety, convenience, and welfare of the inhabitants of the city. Any person keeping, maintaining, or undertaking to keep or permit hogs or hog pens in violation of this section shall be fined therefor and shall also be chargeable with a practice constituting a nuisance and shall be subject to prosecution by any person affected thereby or by the health officer or his assistants. (2000 Code, § 10-103)

10-104. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. Any person keeping any place in violation of this section shall be fined therefor and shall also be chargeable with a practice constituting a nuisance and shall be subject to prosecution by any person affected thereby or by the health officer or his assistants. (2000 Code, § 10-104)

10-105. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended. (2000 Code, § 10-105)

10-106. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (2000 Code, § 10-106)

10-107. Seizure and disposition of animals running at large. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a suitable place provided or designated by the city manager. If the owner is known, he shall be notified by a postcard addressed to his last known mailing address, to appear within ten (10) days and redeem his animal or fowl by paying the pound costs or the same will be humanely destroyed or otherwise disposed of by the pound master.

If the owner is not known, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. The notice shall notify the owner to appear within ten (10) days and redeem his impounded animal or fowl by paying the pound costs or the same will be humanely destroyed or otherwise disposed of by the pound master.

It shall be unlawful for any person to retrieve an impounded animal without first having the same released by the pound master. There shall be a lien on any impounded animal to secure fines and costs and such lien may be enforced by sale of the animal. (2000 Code, § 10-108)

10-108. Storage of feeds. Every keeper of animals and fowls shall cause feed provided therefor to be stored and kept only in a rat-proof, fly-tight building, box, or receptacle. (2000 Code, § 10-109)

10-109. Inspections and orders by the health officer. When it is necessary to see that the provisions of this chapter are observed, the health officer or his authorized representative shall have the power and it shall be his duty to enter any premises at any reasonable hour of the day for the purpose of making inspections.

When violations are discovered, he shall issue such orders as he reasonably deems necessary to correct the unlawful condition within a reasonable time. It shall be unlawful for any person to fail to comply with such an order. (2000 Code, § 10-110)

10-110. Animals causing unsanitary conditions. (1) Within the corporate limits of the City of Elizabethton, the owner or custodian of any animal shall be responsible for the immediate removal of solid waste deposited by said animal on the property of another including, but not limited to, sidewalks, greenways, parks and other public areas. Enforcement of this provision within the central business district shall be either by enforcement action taken by the city police department or by means of a private complaint filed in the city court. Outside of the central business district, enforcement of this section shall be limited to a private complaint filed in the city court.

(2) Failure to remove said animal waste may result in the following penalties:

(a) Fifty dollar ($50.00) fine per occurrence;

(b) Second and subsequent offenses: fifty dollar ($50.00) fine per occurrence.

(3) This section shall not apply to guide dogs and other service animals. (Ord. #46-2, Jan. 2010)

CHAPTER 2

DOGS AND CATS[1]

SECTION

10-201. Definitions.
10-202. Vicious dogs, etc., required to be confined or leashed; dogs running at large.
10-203. Dogs and cats required to be vaccinated.
10-204. Dogs and cats required to be tagged.
10-205. Noisy dogs and cats prohibited.
10-206. Pound, pound master and pound fees.
10-207. Enforcement of chapter and disposition of impounded dogs and cats.
10-208. When pound master will pick up a dog and cats.
10-209. Violations.
10-210. Fees and fines.

10-201. Definitions. Where the following words are used in this chapter, they shall bear the following meanings:

(1) "Dog." All members of the canine family two (2) months or more of age.

(2) "Inoculation." The injection of any anti-rabies vaccine which complies with the regulations of the Tennessee Department of Health.

(3) "Owner." Any person having a right of property in a dog or cat, or who keeps or harbors a dog or cat, or who has it in his care or acts as its custodian, or who permits a dog or cat to remain on or about his premises.

(4) "Vicious dogs or other domesticated animal." Any dog or other domesticated animal which has attacked or which has shown a propensity to bite any human being. (2000 Code, § 10-201, modified)

10-202. Vicious dogs, etc., required to be confined or leashed; dogs running at large. It shall be unlawful for any person within the City of Elizabethton to have the ownership and control or the custody and control of any dog or other domesticated animal at any time, if such person knows that the same is vicious or has a propensity to attack or bite human beings unless such dog or domesticated animal is kept on the property or premises of the owner under fence or within a building, or is tied or leashed in such a manner as to prevent it from getting off the premises of the owner. It shall also be unlawful for any person within the city limits to allow any dog or cat to run at large upon the streets or highways within the city, whether tagged or not, unless said dog

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[1]State law reference
Tennessee Code annotated §§ 68-8-101--68-8-114.

or cat is under the immediate control of the owner of said dog or cat or his agent, and in close proximity thereto, or is being at the time restrained by a leash, firmly held by the person allowing the dog or cat to run. The pound master shall have the authority, upon proper cause, and for good and sufficient reason to him appearing, in the exercise of his discretion and independent judgment, to pick up any dog or cat which is running at large on the streets or highways of the city without regard to whether or not said dog or cat is tagged.

The pound master, in the event that he is unable to catch and restrain any such dog or cat running at large which needs to be caught and restrained, within the meaning of this chapter, and which dog is running at large or becoming a public nuisance, shall have the authority, upon obtaining the concurrence of the chief of police the facts being made known to him, to use a modern type and designed tranquilizer gun for the purpose of rendering said dog or cat amenable to capture and restraint. There shall be no liability for damages on the part of either the pound master or the chief of police in the event that any such dog or cat restrained and captured by use of tranquilizer gun should die by reason of a reaction to any chemical agent. (2000 Code, § 10-202, modified)

10-203. Dogs and cats required to be vaccinated. There is hereby adopted by the City of Elizabethton, Tennessee, Tennessee Code Annotated, title 68, chapter 8, cited as the "The Tennessee Anti-Rabies Law," and the Pound Master of the City of Elizabethton, Tennessee, shall have all of the authority given to health officers under said law.

The owner of every dog or cat that is two (2) months of age or older that is kept on property located within the corporate limits of Elizabethton shall have such dog vaccinated in accordance with the regulations of the Tennessee Department of Health for rabies by or under the supervision of a veterinarian duly licensed by the state board of veterinary examiners. The owner of such dog shall bear the expense of such vaccination and shall secure from the veterinarian a certificate showing the date of such vaccination. (2000 Code, § 10-203, modified)

10-204. Dogs and cats required to be tagged. The owner of each dog that is kept on properties located within the corporate limits shall take the certificate of the veterinarian showing the dog has been vaccinated for rabies to the City Clerk of Elizabethton and shall secure a certificate from the city and serially numbered license tag, which tag shall be fastened to the collar of the dog. This tag will be issued only upon evidence of the vaccination and upon the payment of a license fee of three dollars ($3.00). Such license tag shall be issued annually on or before the first day of April of each year. In case of the loss of a tag from any dog, to which the same has been legally issued, on presentation by the owner of the city certificate to the city clerk, covering the tag originally issued and lost, a new certificate marked "duplicate" shall be issued setting forth

the number of the new tag, with a copy of said new certificate being given to the owner, upon payment of a fifty cent ($0.50) fee. (2000 Code, § 10-204, modified)

10-205. Noisy dogs prohibited.[1] No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling annoys or disturbs the peace and quiet of any neighborhood. (2000 Code, § 10-205)

10-206. Pound, pound master and pound fees. Impoundment shall be in any place designated by the city manager as suitable therefor and such place shall be called the pound. The person responsible for the maintenance, care and restriction of these dogs and cats shall be designated the pound master. Each owner shall pay a maintenance fee of ten dollars ($10.00) per day of impoundment. (2000 Code, § 10-206, modified)

10-207. Enforcement of chapter and disposition of impounded dogs. Any member of the police department, or any other person so designated by the city manager, shall be authorized to enforce this chapter and shall be authorized to take charge of any dog or cat which is kept on properties located within the corporate limits of Elizabethton, that does not have a current license tag, or any dog or other domesticated animal which is vicious or has a propensity to bite human beings as defined in this chapter, or any stray dog or cat. If said dog or cat is wearing a license tag, the owner shall be notified by a postcard addressed to his last known mailing address to appear within five (5) days and redeem his dog or the same will be destroyed or disposed of as hereinafter provided. If said dog or cat is not wearing a license tag, the same shall be destroyed or disposed of as hereinafter provided, unless legally claimed by the owner within three (3) days. No dog shall be released in any event from a pound unless and until it has been vaccinated and licensed as provided herein.

No dog or cat which has been impounded and not redeemed by its owner shall be given away or sold by the pound master; however, the adoption of an impounded animal is hereby specifically allowed, after the animal has spent the required time in the pound, and after the individual requesting adoption has purchased the city dog tag and has had the animal inoculated against rabies.

Before any dog or cat which has been impounded as hereinabove provided can be redeemed by its owner or any other person, such redeeming party shall be required to pay for the privilege of such redemption a charge or fee in the amount of thirty-five dollars ($35.00) and such fee or charge may be paid at the office of the city clerk, the receipt for payment of which may be used for redemption of said dog or cat.

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[1]Municipal code reference
Anti-noise regulations: title 11, chapter 2.

The thirty-five dollar ($35.00) charge or fee referred to above, shall be for the redemption of an animal from the pound for the first (1st) time impoundment of said animal.

If the same animal is impounded a second (2nd) time, within a one (1) year period, the redemption fee shall be seventy-five dollars ($75.00).

If the same animal is impounded a third (3rd) time, within a one (1) year period, the redemption fee shall be one hundred fifty dollars ($150.00). (2000 Code, § 10-207, modified)

10-208. When pound master will pick up a dog or cat. When a person is molested by a dog or other domesticated animal which he deems to be vicious, the pound master shall not be required to pick up such animal unless said pound master shall, from his own observation, determine that said animal is or appears to be of a vicious nature, or unless said animal is a dog not wearing an unexpired license tag, or unless the person so complaining shall swear out a warrant against the owner of such animal. In the latter event said animal will be picked up by the pound master and held awaiting the trial of the issue between the owner of the animal and the person filing the complaint.

In all cases where a dog or other animal has bitten or broken the skin of a human being, and where the doctor treating the patient so bitten is of the opinion that the animal should be quarantined, the animal shall be confined by the owner at the city pound for a period of not less than ten (10) days. The owner of the animal shall bear the expense of its upkeep during the period of confinement. The pound master shall be authorized on any such occasion to go upon private property, if necessary, to pick up the animal known to have bitten or broken the skin of a human being, for the purpose of the enforcement of this provision of this chapter. (2000 Code, § 10-208, modified)

10-209. Violations. The violation of any of the provisions of this chapter shall be a misdemeanor and any person, firm, or corporation found guilty of such a violation shall be subject to a fine. (2000 Code, § 10-209)

10-210. Fees and fines. All fees and fines collected by the City of Elizabethton under the provisions of this chapter shall be used toward the payment of the expenses in connection with the carrying out of the provisions of this chapter. (2000 Code, § 10-210)

CHAPTER 3

BIRD SANCTUARY

SECTION

10-301. City designated as a bird sanctuary.

10-301. City designated as a bird sanctuary. (1) The entire area embraced within the corporate limits of the City of Elizabethton, Tennessee is hereby designated as a bird sanctuary.

(2) It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the City of Elizabethton, Tennessee, then in such event said health authorities shall meet with representatives of the Audubon Society, bird club, garden club, or humane society, or as many of said clubs as are found to exist in the City of Elizabethton, Tennessee, after having given at least three (3) days' actual notice of the time and place of said meeting to the representatives of said clubs.

(3) If as a result of said meeting no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and such manner as is deemed advisable by said health authorities under the supervision of the Chief of Police of the City of Elizabethton, Tennessee.

(4) Nothing in this section shall be construed as conflicting with state law. (2000 Code, § 10-301, modified)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. MISCELLANEOUS.
4. MISDEMEANORS OF THE STATE.

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Drinking beer, etc., on streets, etc.
11-102. Deleted.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or 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 within the city unless the place has an appropriate permit and/or license. (2000 Code, § 11-101)

11-102. Deleted. (2000 Code, § 11-102, as deleted by Ord. #52-17, Sept. 2016 ***Ch1_12-13-18***)

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[1]Municipal code references
Animals and fowls: title 10.
Fireworks and explosives: title 7.
Residential and utilities: title 12.
Streets and sidewalks (non-traffic): title 16.
Synthetic drugs: title 11, chapter 8.
Traffic offenses: title 15.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disorderly conduct.
11-202. Anti-noise regulations.

11-201. Disorderly conduct. (1) A person commits an offense who, in a public place and with intent to cause public annoyance or alarm:

(a) Engages in fighting or in violent or threatening behavior;

(b) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(c) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(d) Between the hours of 11:00 P.M. and 7:00 A.M.

(2) A person also violates this section who makes unreasonable noise that prevents others from carrying on lawful activities.

(3) A violation of this section is a Class C misdemeanor.

11-202. Anti-noise regulations. Subject to the provisions of this section the creating of any unreasonably loud, disturbing, and unnecessary noise within the corporate limits is prohibited.

Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

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

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such

volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city clerk. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.(2000 Code, § 11-202)

CHAPTER 3

MISCELLANEOUS

SECTION

11-301. Curfew for minors.
11-302. Begging.
11-303. Misuse of public water fountains.
11-304. Penalty for violation of civil emergency orders.
11-305. Maintenance of dilapidated buildings, stagnant water, weeds, etc.
11-306. Camping on public property.

11-301. Curfew for minors. 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. (2000 Code, § 11-603)

11-302. Begging. It shall be unlawful for any person to go along the streets or from house to house for the purpose of begging, soliciting, accepting, or receiving alms or charitable funds for his own personal use or disposition. (2000 Code, § 11-605)

11-303. Misuse of public water fountains. Where public water drinking fountains or spigots have been installed on the streets, it shall be unlawful for any person to use such fountains or spigots for bathing purposes, or for any person to spit in or on them, or to place any foreign matter whatever in them. (2000 Code, § 11-606)

11-304. Penalty for violation of civil emergency orders. Any person who violates any of the provisions or orders issued by the city manager, pursuant to the authority vested in him by virtue of Tennessee Code Annotated, title 38, chapter 9, during any proclaimed civil emergency shall be guilty of a misdemeanor. (2000 Code, § 11-607)

11-305. Maintenance of dilapidated buildings, stagnant water, weeds, etc.[1] It shall be unlawful for any person to allow any dilapidated building, stagnant water, or weeds to stand on his property. Furthermore, no person shall maintain or allow any open pools of water or other unfenced hazards on his property. (2000 Code, § 11-609)

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[1]Municipal code reference
Property maintenance regulations: title 13.

11-306. <u>Camping on public 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 the use of artificial means such as a propane stove or other heat-producing portable cooking equipment.

(2) It is an offense for a person to engage in the activity of camping on property owned, leased, or controlled by the City of Elizabethton that is not specifically designated for use as a camping area by the City of Elizabethton, including but not limited to, any public right-of-way (including public sidewalks), public walking and biking trails and public parks. (as added by Ord. #56-21, Aug. 2020 ***Ch2_03-11-21***)

CHAPTER 4

MISDEMEANORS OF THE STATE

SECTION

11-401. Adoption of Class C state misdemeanors as municipal ordinances.

11-401. Adoption of Class C state misdemeanors as municipal ordinances. Pursuant to the authority granted to municipalities by Tennessee Code Annotated § 16-18-302(a) by the Tennessee General Assembly during the 2006 Legislative Session, the City of Elizabethton hereby adopts and ratifies, as though copied verbatim herein, together with all future amendments of state law, these State of Tennessee Criminal Misdemeanors currently or hereafter classified as Class C Misdemeanors. (2000 Code, § 11-701)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. RESIDENTIAL CODE.
3. EXISTING BUILDING CODE.
4. PLUMBING CODE.
5. ELECTRICAL CODE.
6. MECHANICAL CODE.
7. FUEL GAS CODE.
8. ENERGY CONSERVATION CODE.
9. ACCESSIBILITY CODE.
10. APPLICANT REQUIREMENTS AND FEES.
11. VIOLATIONS.
12. BOARD OF APPEALS.

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. Building code adopted.
12-102. Revisions.
12-103. Severability.
12-104. Recommended schedule of permit fees.

12-101. Building code adopted. A certain document being marked and designated as the International Building Code,[2] 2015 edition, including Appendix Chapters I (see International Building Code section 101.2.1, 2015 edition), as published by the International Code Council, be and is hereby adopted as the building code of the City of Elizabethton, in the State of

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Property maintenance regulations: title 13.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

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

Tennessee for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § 12-102. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-102. Revisions. The following sections are hereby revised:
Section 101.1. Insert "City of Elizabethton"
Section 113. Delete
Chapter 13. Delete and Add: "This Chapter shall be replaced with the Energy Conservation Code."
Section 1612. Delete. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-103. Severability. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-104. Recommended schedule of fees. The City of Elizabethton does hereby adopt the schedule of permit fees as set out in Ordinance #51-15,[1] as the schedule of permit fees for building permit fees, plumbing permit fees, electrical permit fees, gas permit fees, and mechanical permit fees within the city limits of the City of Elizabethton, Tennessee. (Ord. #51-15, Aug. 2015)

[1]Permit fees (and any amendments) are of record in the city clerk's office.

CHAPTER 2

RESIDENTIAL CODE[1]

SECTION

12-201. Residential code adopted.
12-202. Revisions.
12-203. Severability.

12-201. Residential code adopted. A certain document being marked and designated as the International Residential Code,[2] 2015 edition, including Appendix Chapters H (see International Residential Code section R102.5, 2015 edition), as published by the International Code Council, be and is hereby adopted as the residential code of the City of Elizabethton, in the State of Tennessee for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-202. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-202. Revisions. The following sections are hereby revised:
Section R 101.1. Insert: "City of Elizabethton"
Table R301.2 (1) Insert: "15"; "90"; "NO"; "B"; "Severe"; "12 inches (305 mm)"; "Moderate to Heavy"; "14 degrees Fahrenheit (-10 degrees Celsius)"; "1999"; "1500 or less"; and "55.9 degrees Fahrenheit (13.2 degrees Celsius)" in each cell respectively.
Section R105.2.1. Delete and Add: "One story detached accessory structures used as storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet and the building is not over 15 feet in height."
Section R106.1. Add: "For all buildings over 5,000 square feet in area and for all buildings with three or more attached dwellings, the construction documents shall be prepared by a registered design professional."

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[1]Permit fees (and any amendments) are of record in the city clerk's office.

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

Section R109.1.3. Delete and Add: "For construction in flood hazard areas as established by the Municipal Floodplain Zoning Ordinance, the building official shall require submission of documentation, prepared and sealed by a registered design professional in accordance with the Municipal Floodplain Zoning Ordinance."
Section R 112. Delete.
Section R303.4. Delete.
Section R303.5. Amend: Before the first sentence insert "Where required by the Building Official," and replace the word "shall" with "may".
Section R313.1. Amend: Add "; however, an automatic fire sprinkler system shall not be required in a three (3) unit townhouse with less than five thousand (5,000) gross square feet and three (3) or fewer stories if each unit is separated by a two (2) hour fire wall" after "install in townhouses."
Section R313.2. Amend: Replace the word "shall" with "may" and delete the exception clause.
Chapter 11. Delete and Add: "This Chapter shall be replaced with the Energy Conservation Code."
Section P2603.5.1 Insert: "18 inches (457 mm)"; "18 inches (457 mm)" (Ord. #51-6, May 2015, as amended by Ord. #52-6, March 2016, and replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-203. Severability. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or adopted code. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #52-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

CHAPTER 3

EXISTING BUILDING CODE

SECTION

12-301. Existing building code adopted.
12-302. Revisions.
12-303. Severability.

12-301. Existing building code adopted. A certain document being marked and designated as the International Existing Building Code,[1] 2015 edition, excluding all Appendixes, as published by the International Code Council, be and is hereby adopted as the existing building code of the City of Elizabethton, in the State of Tennessee for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said existing building code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § 12-302. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-302. Revisions. The following sections are hereby revised:
Section 101.1 Insert: "City of Elizabethton"
Section 112. Delete.
Section 1401.2 Insert: "September 1, 2008" (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-303. Severability. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

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

CHAPTER 4

PLUMBING CODE[1]

SECTION

12-401. Plumbing code adopted.
12-402. Revisions.
12-403. Severability.

12-401. Plumbing code adopted. A certain document being marked an designated as the International Plumbing Code,[2] 2015 edition, excluding all Appendix Chapters, as published by the International Code Council, be and is hereby adopted a the plumbing code of the City of Elizabethton, in the State of Tennessee regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § 12-402. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-402. Revisions. The following sections are hereby revised:
Section 101.1. Insert: "City of Elizabethton"
Section 106.6. Delete.
Section 108.4. Delete.
Section 108.5. Delete.
Section 109. Delete and Add. 'This section shall be replaced with the established appeals process in Title 12."
Section 305.4.1. Insert: "18 inches (457 mm)"; "18 inches (457 mm)"

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[1]Municipal code reference
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.
Permit fees (and any amendments) are of record in the city clerk's office.

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

Section 903.1. Insert: "12 inches (305 mm)" (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-403. <u>Severability</u>. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

CHAPTER 5

ELECTRICAL CODE[1]

SECTION

12-501. Electrical code adopted.
12-502. Revisions.
12-503. Hierarchy of regulations.
12-504. Severability.

12-501. Electrical code adopted. A certain document being marked and designated as the National Electrical Code,[2] 2017 edition, including Appendix A, B, C, D, E, F, G, H (excluding section 80.15 and 80.23) and I, as published by the National Fire Protection Application, be and is hereby adopted as the electrical code of the City of Elizabethton, in the State of Tennessee, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of electrical code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in §12-502. (Ord. #51-6, May 2015, as replaced by Ord. #54-29, Aug. 2018 ***Ch1_12-13-18***)

12-502. Revisions. The following sections are hereby revised:
Article 210.12(A). Delete the phrase "laundry areas". (Ord. #51-6, May 2015, as replaced by Ord. #54-29, Aug. 2018 ***Ch1_12-13-18***)

12-503. Hierarchy of regulations. Where there is a conflict between this code and any other codes adopted in this title, this code shall supersede. Additionally, this code shall serve as the electrical provisions of the International Building Code and the International Residential Code, as adopted elsewhere. (Ord. #51-6, May 2015)

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[1]Municipal code references
Fire protection, fireworks and explosives: title 7.
Permit fees (and any amendments) are of record in the city clerk's office.

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

12-504. Severability. If any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015)

CHAPTER 6

MECHANICAL CODE[1]

SECTION

12-601. Mechanical code adopted.
12-602. Revisions.
12-603. Severability.

12-601. Mechanical code adopted. A certain document being marked and designated as the International Mechanical Code,[2] 2015 edition, excluding all Appendix Chapters, as published by the International Code Council, be and is hereby adopted as the mechanical code of the City of Elizabethton, in the State of Tennessee regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in § 12-602. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-602. Revisions. The following sections are hereby revised:
Section 101.1 . Insert: "City of Elizabethton"
Section 106.5. Delete.
Section 108.4. Delete.
Section 108.5. Delete.
Section 109. Delete and Add. "This section shall be replaced with the established appeals process in Title 12." (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

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[1]Municipal code references
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.
Permit fees (and any amendments) are of record in the city clerk's office.

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

12-603. <u>Severability</u>. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

CHAPTER 7

FUEL GAS CODE[1]

SECTION

12-701. Fuel gas code adopted.
12-702. Revisions.
12-703. Severability.

12-701. Fuel gas code adopted. A certain document being marked and designated as the International Fuel Gas Code,[2] 2015 edition, excluding all Appendix Chapters, as published by the International Code Council, be and is hereby adopted as the fuel gas code of the City of Elizabethton, in the State of Tennessee for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 12-702. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-702. Revisions. The following sections are hereby revised:
Section 101.1. Insert: "City of Elizabethton"
Section 106.6. Delete.
Section 108.4. Delete.
Section 108.5. Delete.
Section 109. Delete and Add. "This section shall be replaced with the established appeals process in Title 12." (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-703. Severability. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase

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[1]Municipal code reference
Gas system administration: title 19, chapter 2.
Permit fees (and any amendments) are of record in the city clerk's office.

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

thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

CHAPTER 8

ENERGY CONSERVATION CODE[1]

SECTION

12-801. Energy conservation code adopted.
12-802. Revisions.
12-803. Hierarchy of regulations.
12-804. Severability.

12-801. Energy conservation code adopted. A certain document being marked and designated as the International Energy Conservation Code,[2] 2015 edition, as published by the International Code Council, be and is hereby adopted as the energy conservation code of the City of Elizabethton, in the State of Tennessee for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 12-802. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-802. Revisions. The following sections are hereby revised:
Section C101.1 and R101.1. Insert: "City of Elizabethton"
Section C108 and R108. Delete.
Section C109 and R109. Delete.
Section R402.1.2. Amend: Replace the words "shall be" with "may be optionally" in the first sentence. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-803. Hierarchy of regulations. Where there is a conflict between this code and any other codes adopted in this chapter, this code shall supersede.

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Street and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

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

Additionally, this code shall serve as the energy conservation provisions of the International Building Code and the International Residential Code, as adopted elsewhere. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-804. Severability. That if any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

CHAPTER 9

ACCESSIBILITY CODE

SECTION

12-901. Accessibility code adopted.
12-902. Severability.

12-901. Accessibility code adopted. A certain document being marked and designated as the 2010 ADA Standards for Accessible Design as published by the United States Department of Justice, be and is hereby adopted as the accessibility code of the City of Elizabethton, in the State of Tennessee for regulating and governing newly designed and constructed or altered local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities; and each and all of the regulations, provisions, penalties, conditions and terms of said accessibility code on file in the office of the building inspector are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter. (Ord. #51-6, May 2015)

12-902. Severability. If any section, subsection, sentence, clause or phrase of this legislation or adopted code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Elizabethton City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. #51-6, May 2015)

CHAPTER 10

MINIMUM APPLICANT REQUIREMENTS

SECTION

12-1001. Minimum applicant requirements.
12-1002. Fees.

12-1001. Minimum applicant requirements. (1) Applicants applying for a permit as required in chapters one (1) through nine (9) of this code shall be required to provide proof of successful completion of Tennessee state trade examinations or trade licensing requirements appropriate to the type of permit being applied for in accordance with the requirements of Tennessee Code Annotated, § 62-6-103(a)(1). If a state trade examination or trade license is not required for the application of a certain permit, proof of a valid Tennessee business license shall be required.

(2) Applicants applying for a permit as required in chapters one (1) through nine (9) of this code shall be required to provide proof of current, proper liability insurance of a minimum of one-hundred thousand dollars ($100,000.00) for the business or person named as the applicant.

(3) Applicants applying for a permit and meeting the exemption requirements of Tennessee Code Annotated, § 62-6-103(a)(2) or completing work at their principal residence which has a valuation of less than twenty-five thousand dollars ($25,000.00) shall be exempt from the requirement of this section and shall be required to attest to meeting the requirements of Tennessee Code Annotated, § 62-6-103(a)(2) or provide proof of principal residence. These exemptions shall not extend to other contractors or subcontractors and will only be granted so far as the State of Tennessee laws and rules allow. (Ord. #51-6, May 2015, as amended by Ord. #51-25, Nov. 2015, and replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

12-1002. Fees. (1) Fees shall be set by the City of Elizabethton fee schedule for permits.[1]

(2) If any construction, alteration, or repair requiring a building permit has a valuation greater than twenty-four million dollars ($24,000,000.00) and has a size greater than one hundred thousand (100,000) square feet, the project may be subject to a plans review conducted by a third party, private, International Code Council certified reviewer. All fees associated with this plans review will be charged to the permit applicant. (Ord. #51-6, May 2015, as replaced by Ord. #54-36, Oct. 2018 ***Ch1_12-13-18***)

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[1]Permit fees (and any amendments) are of record in the city clerk's office.

CHAPTER 11

VIOLATIONS

SECTION

12-1101. Unlawful acts.
12-1102. Notice of violation.
12-1103. Prosecution of violation.
12-1104. Violation penalties.
12-1105. Stop work orders.
12-1106. Abatement of violation.
12-1107. Hierarchy of regulations.

12-1101. Unlawful acts. It shall be unlawful for any person, firm or corporation to act in violation of any of the provisions of this code or work in violation of the approved construction documents or directive of the building inspector. (Ord. #51-6, May 2015)

12-1102. Notice of violation. The building inspector shall serve a notice of violation or order to the person responsible for the violation of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. (Ord. #51-6, May 2015)

12-1103. Prosecution of violation. If the notice of violation is not complied with promptly, the building inspector shall issue a citation to the person responsible for the violation. (Ord. #51-6, May 2015)

12-1104. Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or work in violation of the approved construction documents or directive of the code official, is punishable by a fine of not more than fifty dollars ($50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. #51-6, May 2015)

12-1105. Stop work orders. Upon notice from the building inspector that work on any building or structure is being done contrary to the provisions of this code or work contrary to the approved construction documents or directive of the building inspector or in a dangerous or unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume. Where occurrences of immediate danger exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the

structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than fifty dollars ($50.00). (Ord. #51-6, May 2015)

12-1106. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the plumbing on or about any premises. (Ord. #51-6, May 2015)

12-1107. Hierarchy of regulations. Where there is a conflict between this code and any other codes adopted by the City of Elizabethton in chapters one (1) through nine (9), this code shall supersede.

CHAPTER 12

BOARD OF APPEALS

SECTION

12-1201. Creation of board of appeals.
12-1202. Board authority.
12-1203. Board membership.
12-1204. Application for appeal.
12-1205. Meeting proceedings.
12-1206. Conflicts of interest.
12-1207. Board decisions and judicial review.

12-1201. Creation of board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the chief building official or fire marshal relative to the application and interpretation of this title, any codes adopted by this title, § 7-201 of the Elizabethton Municipal Code, and any codes adopted by § 7-201 of the Elizabethton Municipal Code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the mayor and confirmed by the city council. The board shall adopt rules of procedure for conducting its business. This board shall be hereafter known as the building codes board of appeals. (Ord. #51-6, May 2015)

12-1202. Board authority. The building codes board of appeals shall have the authority to hear and decide appeals of orders, decisions or determinations made by the chief building official or fire marshal relative to the application and interpretation of this title, any codes adopted by this title, § 7-201 of the Elizabethton Municipal Code, and any codes adopted by § 7-201 of the Elizabethton Municipal Code. The board shall have no authority to waive requirements of this code.

(1) Determining substantial improvement for residential structures FEMA floodplains and floodways. When the chief building official provides a finding required in section R105.3.1.1 of the International Residential Code, 2012 edition, the board of appeals shall determine whether the value of the proposed work constitutes a substantial improvement. A substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the building or structure before the improvement or repair is started. If the building or structure has sustained substantial damage, all repairs are considered substantial improvement regardless of the actual repair work performed. The term does not include:

(a) Improvements of a building or structure required to correct existing health, sanitary or safety code violations identified by the chief

building official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of an historic building or structure provided that the alteration will not preclude the continued designation as an historic building or structure. For the purpose of this exclusion, an historic building is:

(i) Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or

(ii) Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or

(iii) Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

(2) Variances for residential structures in FDMA floodplains or floodway. A variance shall only be issued upon:

(a) A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards in section R322 of the International Residential Code, 2012 edition, inappropriate.

(b) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(d) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

(e) Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property. (Ord. #51-6, May 2015)

12-1203. Board membership. The board shall consist of seven (7) members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. A minimum of five (5) members of the board shall be chosen from one (1) of the following design professionals: registered architect, structural engineer, mechanical engineer, plumbing engineer, electrical engineer, fire protection engineering, or, if none of the previous can be found to serve, any of the

following with at least ten (10) years' experience, five (5) years of which shall have been in responsible charge of work: builder or superintendent of building construction, mechanical contractor, plumbing contractor, electrical contractor, or fire protection contractor. Each member shall serve for five (5) year terms or until a successor has been appointed.

Executive secretary. The city manager shall designate a qualified clerk to serve as secretary to the board. The secretary shall record and file detailed minutes of the meeting and board resolutions in the office of the city clerk. The executive secretary shall also draft board resolutions and distribute resolutions to the appellant and to the chief building official or fire marshal. The executive secretary shall not be the chief building official or fire marshal or any other building official employed by the municipality. (Ord. #51-6, May 2015)

12-1204. Application for appeal. Any person shall have the right to appeal a decision of the chief building official or fire marshal to the board of appeals. A written request for appeal (which must outline the code provision for which the appeal is sought and the bases for the claim) shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction or method of protection or safety is proposed. The appeal shall be filed in writing with the chief building official within twenty (20) days after such person, firm, or corporation has been notified. (Ord. #51-6, May 2015)

12-1205. Meeting proceedings. The board shall meet upon notice from the chairman, within ten (10) days of the filing of an appeal or at stated periodic meetings. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the chief building official or fire marshal and any person whose interests are affected shall be given an opportunity to be heard. (Ord. #51-6, May 2015)

12-1206. Conflicts of interest. A member shall not hear an appeal in which that member has any personal, professional or financial interest in a party of the appeal. (Ord. #51-6, May 2015)

12-1207. Board decisions and judicial review. (1) The board shall modify or reverse the decision of the chief building official or fire marshal by a concurring majority vote. The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the chief building official or fire marshal. The chief building official or fire marshal shall take immediate action in accordance with the decision of the board.

(2) Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time

required by law following the filing of the decision in the office of the city clerk. (Ord. #51-6, May 2015)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER
1. PROPERTY MAINTENANCE CODE.
2. WRECKED, JUNKED, OR ABANDONED VEHICLE CODE.
3. REMOVAL OR REPAIR OF BUILDINGS UNFIT FOR HUMAN OCCUPANCY OR USE.

CHAPTER 1

PROPERTY MAINTENANCE CODE

SECTION
13-101. Property maintenance code adopted.
13-102. Revisions.
13-103. Supplemental provisions.
13-104. Penalty clause.

13-101. Property maintenance code adopted. A certain document being marked and designated as the International Property Maintenance Code,[2] 2015 edition, as published by the International Code Council, Inc., be and is hereby adopted as the property maintenance code of the City of Elizabethton, in the State of Tennessee, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the building

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[1]Municipal code references
Animal control: title 10.
Building, utility, and residential codes: title 12.
Garbage and refuse: title 17, chapter 1.
Littering generally: title 11, chapter 7.
Littering streets, etc.: § 16-106.
Wastewater treatment: title 18, chapter 2.

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

inspector are hereby referred to, adopted, and made a part thereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in §13-102. (Ord. #51-9, June 2015, as replaced by Ord. #54-37, Oct. 2018 ***Ch1_12-13-18***)

13-102. <u>Revisions</u>. The following sections are hereby revised:
Section 101.1. Insert: City of Elizabethton
Section 107 .1. Add: "Exception: The provision of this section shall not be required for a subsequent violation within any given six (6) month period after a Notice of Violation for said violation has been previously issued and delivered."
Section 111. Delete and Add: "This Section shall be replaced by Title 12, Chapter 12, of the Elizabethton Municipal Code."
Section 112.4 Insert: "50.00 dollars"; "50 dollars"
Section 302.4 Insert: "six (6) inches (152 mm)
Section 302.4. Insert: Exception: The following areas shall be exempt from this section: (1) areas used for agricultural purposes; (2) woodland, meadows, or other natural areas (defined as an area that has been developed through natural growth over many decades with little or no human design or planning); and (3) non-turf grass, native landscape or yard areas provided: (a) the area is specifically defined and registered with the Chief Building Official; (b) a landscape plan for the area shall be presented, reviewed, and recorded as part of the registration; (c) the plants used in the landscape shall be native to East Tennessee; (d) the area must promote and aid wildlife, and/or offset and control any soil loss or stormwater problems occurring; (e) plant growth within 10 feet of the front property line or any other property line along a public street, 5 feet from the rear and side property lines, and the public right-of-way shall not exceed 6 inches unless identified as part of a required stormwater structure; (f) prior turf grass and any noxious weeds (including cocklebur, crabgrass, dandelions, couch grass, and ragweed) must be eliminated, prevented from reoccurring, and the native grasses, sedges and forbs planted through transplanting or seed; (g) the area shall be cut to a length no greater than 10 inches once a year; and (h) the area must be marked with a sign a minimum of 100 square inches and less than 144 square inches, stand at least 1 foot and no more than 2 feet high advising that a native landscape area is being established in areas likely to be seen by the public.
Section 304.14. Insert: "March 15"; "October 15".
Section 602.3. Insert: "September 15"; "May 15".
Section 602.4. Insert: "September 15; "May 15". (Ord. #51-9, June 2015, as replaced by Ord. #54-37, Oct. 2018 ***Ch1_12-13-18***)

13-103. <u>Supplemental provisions</u>. The provisions of this chapter are supplemental to other ordinances of the City of Elizabethton. The code enforcement officer is authorized to use whichever ordinance provisions he/she

deems appropriate to obtain compliance with property standards. (Ord. #51-9, June 2015)

13-104. Penalty clause. Any person who shall violate a provision of the building and property maintenance codes of the City of Elizabethton, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a fifty dollar ($50.00) per day penal fine and five hundred dollars ($500.00) in remedial fines for each violation, and shall hereafter be cited as the City of Elizabethton general penalty clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. #51-9, June 2015)

CHAPTER 2

WRECKED, JUNKED, OR ABANDONED VEHICLE CODE

SECTION

13-201. Title.
13-202. Wrecked, junked or abandoned vehicle defined.
13-203. Parking and storage of wrecked, junked, or abandoned vehicles prohibited.
13-204. Parking and storage on residential property restricted.
13-205. Parking and storage on nonresidential property restricted.
13-206. Procedure for removal.
13-207. Violations and penalty.

13-201. Title. This chapter shall be known as the "Wrecked, Junked, or Abandoned Vehicle Code of the City of Elizabethton" in the State of Tennessee, for the control and regulation of wrecked, junked, or abandoned vehicles as herein defined and provided. (Ord. #48-22, Oct. 2012)

13-202. Wrecked, junked or abandoned vehicle defined. (1) For the purposes of this chapter, a wrecked, junked, or abandoned vehicle shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(a) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle drive shaft, differential, or axle.

(c) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield or windows.

(d) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(e) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(f) Interior is a container for metal, glass, paper, rags, or other cloth, wood, auto parts, machinery, waste or discarded materials in such

quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(g) Lying on the ground (upside down, on its side, or at other extreme angles), sitting on blocks or suspended in the air by any other method.

(h) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(2) In addition, boats, campers, recreational vehicles, and storage trailers in a wrecked, junked or abandoned condition, as defined above, shall also be considered a public nuisance and in violation of this chapter. (Ord. #48-22, Oct. 2012)

13-203. Parking and storage of wrecked, junked, or abandoned vehicles prohibited. It shall be unlawful to park, store or leave any motor or other vehicle as wrecked, junked, partially dismantled, or in an abandoned condition, on public or private property in the City of Elizabethton for a period of longer than seven (7) days unless it is in connection with a purpose or business enterprise lawfully situated, licensed, and operating as required in § 13-205. All such wrecked, junked, or abandoned vehicles are hereby declared to be public nuisances. (Ord. #48-22, Oct. 2012)

13-204. Parking and storage on residential property restricted.

(1) All wrecked, junked, or abandoned vehicles being temporarily parked or temporarily stored on residential property shall be parked or stored on concrete, asphalt or gravel.

(2) Boats, campers, recreational vehicles, and storage trailers are not required to be parked or stored on concrete or asphalt in accordance with subsection (1) above so long as they:

(a) Are in operable condition;

(b) The surrounding area is maintained and free of grown up vegetation and debris; and

(c) Are not classified as wrecked, junked or abandoned as defined in § 13-202.

(3) No more than three (3) wrecked, junked, or abandoned vehicles may be parked or stored at a dwelling unit for more than a seven (7) day period unless they are enclosed in a building. (Ord. #48-22, Oct. 2012)

13-205. Parking and storage on nonresidential property restricted. No business enterprise shall park, store, leave, or permit the parking, storage or leaving of any vehicle that is wrecked, junked or abandoned, as defined above, on any private property within the city for more than seven (7) days unless:

(1) The vehicle is completely enclosed in a building.

(2) The area of property devoted to the storage of the vehicle(s) is enclosed by a solid masonry wall, sight proof fence, a visually solid evergreen hedge, or other year-round sight proof vegetative barrier, none of which may be less than six feet (6') in height (at planting or when being maintained).

(3) This section shall take effect on January 1, 2016, for all business enterprises currently operating as of the effective date of the ordinance comprising this chapter. All business enterprises which are begun after the ordinance comprising this chapter is adopted are required to comply with this municipal code section. (Ord. #48-22, Oct. 2012)

13-206. Procedure for removal. (1) The City of Elizabethton Police Department may take into custody any motor vehicle found wrecked, junked, or abandoned on public or private property. In such conditions, the police department may employ its own personnel, equipment and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing wrecked, junked, or abandoned motor vehicles.

(2) Any wrecked, junked, or abandoned vehicles found on public or private property taken into custody by the police department must follow and comply with procedures set forth in Tennessee Code Annotated §§ 55-16-101 to 55-16-113. (Ord. #48-22, Oct. 2012)

13-207. Violations and penalty. (1) It shall be unlawful for a person, firm, enterprise, or corporation to be in conflict with or in violation of any of the provisions of this code. Violation procedures shall be adopted from sections 106 and 107 of the International Property Maintenance Code, 2006 edition, as published by the International Code Council, with the additions, insertions, deletions and changes, if any, prescribed in subsection (2) below.

(2) The following sections are hereby revised.

Section 107.1. Add: Exception: The provision of this section shall not be required for a subsequent violation within any given six (6) month period after a notice of violation for said violation has been previously issued and delivered.

(3) Any person who shall violate a provision of the wrecked, junked, or abandoned vehicle code of the city, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a fifty dollar ($50.00) per day penal fine and five hundred dollars ($500.00) in remedial fines for each violation, and shall hereafter be cited as the City of Elizabethton General Penalty Clause. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. #48-22, Oct. 2012)

CHAPTER 3

REMOVAL OR REPAIR OF BUILDINGS UNFIT FOR HUMAN OCCUPANCY OR USE[1]

SECTION

13-301. Definitions.
13-302. Structures unfit for human occupancy or use--power to demolish.
13-303. Designation of city manager to enforce power to demolish.
13-304. Powers of city manager.
13-305. Conditions rendering structure unfit for human occupation or use.
13-306. Enforcement procedures.
13-307. Service of complaints or orders.
13-308. Enjoining enforcement of order.

13-301. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

(2) "Owner" means the holder of the title in fee simple and every mortgage of record;

(3) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

(4) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited;

(5) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the municipality or state relating to health, fire building regulations, or other activities concerning structures in the municipality;

(6) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by ordinance adopted hereunder to exercise the power prescribed by such ordinances and by this chapter;

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[1]Municipal code references
Building, electrical and property maintenance codes: title 12.
Fire code: title 7.
State law reference
Tennessee Code Annotated, title 13, chapter 12.

(7) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (2000 Code, § 13-301)

13-302. Structures unfit for human occupancy or use--power to demolish. In accordance with the provisions of Tennessee Code Annotated § 13-21-102 the City Council of Elizabethton finds that there exists in this city structures which are unfit for human occupation or use 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 structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of this city. The City Council of Elizabethton hereby determines and declares that the city shall exercise its police powers to repair, close or demolish the aforementioned structure in the manner herein provided. (2000 Code, § 13-302)

13-303. Designation of city manager to enforce power to demolish. In accordance with the provisions of Tennessee Code Annotated § 13-21-103(1) the city manager of the city shall be designated and appointed to exercise the powers prescribed by this chapter. The city manager shall insure compliance with the provisions of Tennessee Code Annotated § 13-21-108 regarding budgetary requirements of the enforcement of this chapter. (2000 Code, § 13-303)

13-304. Powers of city manager. In accordance with the provisions of Tennessee Code Annotated § 13-21-107 the city manager is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted, to:

(1) Investigate conditions in the city in order to determine which structures therein are unfit for human occupation or use.

(2) Administer oaths, affirmations, examine witnesses and receive evidence.

(3) Enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) Appoint and fix the duties of such officers, agents and employees, as the city manager deems necessary to carry out the purposes of this chapter.

(5) Delegate any of the city manager's functions and powers under this chapter to such officers and agents as the city manager may designate. (2000 Code, § 13-304)

13-305. Conditions rendering structure unfit for human occupation or use. The city manager may determine that a structure is unfit

for human occupation or use if the city manager finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of this city. 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; or uncleanness. The city manager may also use the criteria for unsafe buildings as set out in the property maintenance code, adopted and referred to in title 13, chapter 1, of this code, to assist him in determining when a structure is unfit for human occupation or use. (2000 Code, § 13-305, as amended by Ord. #48-23, Oct. 2012)

13-306. Enforcement procedures. (1) Whenever a petition is filed with the city manager by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupation or use, or whenever it appears to the city manager (on the city manager's own motion) that any structure is unfit for occupation or use, the city manager shall, if the city manager's 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 city manager (or the city manager's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint, that:

(a) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city manager.

(2) If, after such notice and hearing, the city manager determines that the structure under consideration is unfit for human occupation or use, the city manager shall state in writing the city manager's findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order to either repair or remove the structure.

(a) If the costs of the repair, alteration or improvement of the structure will be less than fifty percent (50%) of the value of the structure, the order shall require the owner, within the time specified in the order, to either repair or remove the structure.

(b) If the costs of the repair, alteration or improvement of the structure will be fifty percent (50%) or more of the value of the structure, the order shall require the owner, within the time specified in the order, to remove or demolish such structure.

(c) The city manager shall determine the value of the structure in question existing on the land. The value of the land itself shall not be considered. If the structure can be made to conform to habitable

standards as set out herein by an expenditure of less than fifty percent (50%) of the value of the building, the order shall conform to the provisions of subsection (2)(a). If an expenditure of fifty percent (50%) or more of the value of the building will be necessary to make the structure properly habitable the order shall conform to the provisions of subsection (2)(b).

(3) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the city manager may cause such structure to be repaired, altered or improved, or to be vacated and closed; that the city manager may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

(4) If the owner fails to comply with an order to remove or demolish the structure, the city manager may cause such structure to be removed or demolished.

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the city manager shall be assessed against the owner of the property, and shall, upon the filing of the notice with the office of the register of deeds of the county in which the property lies, be a lien on the property in favor of the city, second only to liens of the state, county and city for taxes, any lien of the city for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected.

(6) 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. In addition, the city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the city manager, the city manager 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 by the city manager, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order to decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (2000 Code, § 13-306)

13-307. Service of complaints or orders. Complaints or orders issued by the city manager pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the city manager in the exercise of reasonable diligence, and the city manager 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, or in the absence of such newspaper, in one printed and published in the county and circulating in the city in which the structures are located. A copy of such complaint or order shall be posted in a conspicuous place on 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 the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (2000 Code, § 13-307)

13-308. Enjoining enforcement of order. (1) Any person affected by an order issued by the city manager may file a bill in the chancery court for an injunction restraining the city manager from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the city manager pending the final disposition of the cause; provided, that within sixty (60) days after the posting and service of the order of the city manager, such person shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

(2) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the city manager as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the city manager shall be entitled to recover any damages for action taken pursuant to any order of the city manager, or because of noncompliance by such person with any order of the city manager. (2000 Code, § 13-308)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL PROVISIONS RELATING TO ZONING.
3. PROVISIONS GOVERNING USE DISTRICTS.
4. DIMENSIONAL REQUIREMENTS; MOBILE UNITS.
5. SIGNS.
6. EXCEPTIONS AND MODIFICATIONS.
7. ENFORCEMENT.
8. BOARD OF ZONING APPEALS.
9. AMENDMENT.
10. EROSION AND SEDIMENTATION CONTROL ORDINANCE.
11. SHOPPING CENTERS.
12. AIRPORT ZONING ORDINANCE.
13. TRAILERS AND TRAILER COURTS.
14. FLOODPLAIN ZONING ORDINANCE.
15. MOBILE HOME PARK REGULATIONS.
16. LANDSCAPE REGULATIONS.
17. ELIZABETHTON TREE REGULATIONS.
18. HIGHWAY ENTRANCE OVERLAY DISTRICT.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION[1]

SECTION

14-101. Creation of planning commission--appointment of members--term of office--vacancies.
14-102. Organization, powers, duties, etc.

14-101. Creation of planning commission--appointment of members--term of office--vacancies. Pursuant to the provisions of Tennessee Code Annotated, §§ 13-4-101 and 13-3-102, there is hereby created and established a municipal planning commission designated as a regional planning commission, hereinafter referred to as "planning commission." The planning

[1]Ordinance #38-17, Dec. 2002, exempts the planning director, the members of the Elizabethton Regional Planning Commission and the board of zoning appeals from the requirements of The Training and Continuing Education Act of 2002, Tennessee Code Annotated § 13-3-101, et seq.

commission shall consist of seven (7) members. One (1) of the members shall be the mayor of the municipality, or a person designated by the mayor, and one (1) of the members shall be a member of the city council, and at least (2) members (appointed by the mayor) shall reside within the regional area outside of the municipal boundaries served by the planning commission. All other members shall be appointed by the mayor. All members of the commission shall serve without compensation. The initial commission shall be appointed for five (5), four (4), three (3), two (2), and one (1) year terms. Thereafter the terms shall be for five (5) years, except for the terms of the mayor and the councilman, which terms shall expire concurrent with their term of office. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his (her) pleasure. (Ord. #49-7, March 2013)

14-102. Organization, powers, duties, etc. The planning commission shall have such organization, rules, staff, powers, functions, duties, and responsibilities as are prescribed in the general law relating to municipal planning commissions in Tennessee Code Annotated title 13. (2000 Code, § 14-102)

CHAPTER 2

GENERAL PROVISIONS RELATING TO ZONING[1]

SECTION

14-201. Short title.
14-202. Purpose.
14-203. Definitions.
14-204. Establishment of districts.
14-205. Application of regulations.
14-206. Continuance of nonconforming uses.
14-207. Obstruction of vision at street intersections prohibited.
14-208. Off-street automobile parking.
14-209. Off-street loading and unloading space.
14-210. Inclusion of floodplain provisions.
14-211. Group housing and planned unit development.
14-212. Shopping centers.
14-213. Flea markets.
14-214. Yard sales.
14-215. Temporary storage containers.

14-201. Short title. Chapters 2 through 8 of this title shall be known as the "Zoning Ordinance of the City of Elizabethton, Tennessee,"[2] and the map herein referred to, which is identified by the title "Zoning Map of the City of Elizabethton, Tennessee," dated August, 1971, and all explanatory matter thereon are hereby adopted and made a part of chapters 2 through 8 of this title. (2000 Code, § 14-201)

14-202. Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, flood, panic, and overcrowding of land, to avoid undue concentration of population to facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses,

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[1]Amendments to the zoning ordinance are of record in the city clerk's office.

[2]The zoning map, and all amendments thereto, is of record in the city clerk's office.

and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (2000 Code, § 14-202, modified)

14-203. Definitions. Unless otherwise stated, the following words shall, for the purpose of chapters 2 through 8 of this title, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The words "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," arranged, or designed to be used or occupied.

(1) "Adult oriented establishments." Sexually explicit establishments which cater to an exclusively or predominantly adult clientele and including but not limited to: adult book store, adult theaters, adult motion picture theaters, cabarets and other enterprises which regularly feature materials, acts, or displays involving complete nudity or exposure of human genitals, pubic regions, buttocks or female breast and/or sexual enticement or excitement.

(2) "Alley." Any public or private way set aside for public travel, twenty feet (20') or less in width.

(3) "Bed and breakfast home." A residential unit in which between one (1) and three (3) guest rooms are available for overnight accommodations and breakfast for the registered guests is provided. The owner shall have primary residence on the premises and the use shall be subordinate and incidental to the main residential use of the building.

(4) "Boarding or rooming house." A building containing a single dwelling unit and not more than five (5) guest rooms where lodging is provided with or without meals for compensation.

(5) "Buffer strip." A plant material acceptable to the building inspector which has such growth characteristics as will provide an obscuring screen not less than six feet (6') in height.

(6) "Building." Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

(a) "Accessory apartment." A detached single-family apartment unit either ground level or a garage apartment containing no more than eight hundred (800) square feet in living area and located on the same lot with another single-family residential structure.

(b) "Accessory building or use." A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

(c) "Principal building." A building in which is conducted the main or principal use of the lot on which said building is located.

(7) "Building height." The vertical distance measured from the finished grade at the building line to the highest point of the roof.

(8) "Business sign." Business and other advertising signs are defined in title 14, chapter 5.

(9) "Crematories." A place which has been certified by the state for the cremation of human remains. A crematory may be accessory to a funeral home or may be a principal use.

(10) "Day care home." A home operated by any person, social agency, corporation or institution, or any other group which receives a minimum of five (5) and a maximum of twelve (12) children (and up to three [3] additional school age children who will only be present when school is not in session), provided such establishment is licensed by the state and operated in accordance with state requirements.

Day care homes that have more than fifteen (15) children shall be considered private schools for the purpose of this section and shall be allowed in the same zones and under the same conditions as private schools.

(11) "Dwelling." A building designed or used as the permanent living quarters for one (1) or more families.

(12) "Family." One (1) or more persons occupying a premise and living together as a single housekeeping unit.

(13) "Flea market." An assembly of vendors, selling merchandise or antiques in the open air or within temporary structures, which display and sell their wares on the lands of another for a consideration. This shall include open-air markets or swap-meets.

(14) "Flood." An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

(15) "Floodway." The channel of the stream and that portion of the adjoining floodplains designated by the regulating agency reasonably to provide for the passage of flood flows.

(16) "Floodway fringe area." Areas lying outside the floodway district but within the area which would be flooded by the one percent (1%) probability flood.

(17) "Funeral homes." A place used for human funeral services. Such place may include space and facilities for:

(a) Display of deceased persons and rituals connected therewith before burial or cremation;

(b) Embalming and the performance of other services used in the preparation of the dead for burial or cremation;

(c) The performance of autopsies and other surgical procedures upon the dead;

(d) The sale and/or storage of caskets, funeral urns, and other related funeral supplies; and

(e) The storage of funeral vehicles.

(18) "Home occupation." A small-scale occupation or business activity which results in a product or service for financial gain and is conducted in whole

or part in the dwelling unit and is clearly an incidental use and subordinate to the residential use of the dwelling unit provided that:

(a) No more than twenty-five percent (25%) of the total floor area of the dwelling unit may be used in connection with a home occupation;

(b) The person or persons who own or occupy the dwelling, and up to one (1) additional person, may be employed in the home occupation;

(c) There shall be no outside evidence of the home occupation, except that one (1) unanimated, unilluminated announcement sign having an area of not more than four (4) square feet shall be permitted on the street front of the lot on which the building is located;

(d) There shall be no exposed exterior storage of materials, equipment, or stock to be used in conjunction with a home occupation;

(e) The sale of products and consumer goods shall be prohibited except for independent consultants (such as Mary Kay, Pampered Chef and the like) or the sale of products or goods produced or fabricated on the premises as a result of the home occupation;

(f) No alteration of the residential appearance of the premises to accommodate the home occupation is allowed;

(g) In no case shall a home occupation be open to the public at times earlier than 7:00 A.M. nor later than 9:00 P.M.;

(h) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced;

(i) The number of vehicles used by clients or business related visitors to any home business shall be limited to two (2) at any given time. Parking shall not be permitted in the front or side yards; and

(j) Vehicles used for delivery or pick-ups are limited to those normally servicing residential neighborhoods.

(19) "Homes for persons with disabilities." Any home in which eight (8) or fewer unrelated or persons with disabilities handicapped reside and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the persons with disabilities residing in the home shall be classified as a single-family residence.

(20) "Lot." A parcel of land which fronts on and has access to a public street or a permanent transportation easement and which is occupied or intended to be occupied by a building or buildings with customary accessories and open space.

(a) "Lot line." The boundary dividing a given lot from a street, alley, or adjacent lots.

(b) "Lot of record." A lot, the boundaries of which are filed as legal record.

(21) "Mobile home and mobile unit." (a) A mobile home is a dwelling unit with all of the following characteristics:

(i) 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.

(ii) Designed to be transported after fabrication on own wheels, or on flatbed or other trailers or detachable wheels or constructed as a single self contained unit and mounted on a single chassis.

(iii) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connections to utilities, and the like.

(b) A mobile unit is a structure which has all of the following characteristics:

(i) Designed to be transported after fabrication on its own wheels or on flatbed or other trailer or detachable wheels or constructed as a single self contained unit and mounted on a single chassis.

(ii) Arriving at the site where it is to function as an office, commercial establishment, assembly hall, storage, governmental, or other similar purpose and ready for use except for minor and incidental unpacking and assembly operations, location on foundation supports, connections to utilities, and the like.

(22) "Mobile home park." Any plot of ground containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or are intended to be located (does not include sites where unoccupied mobile homes are on display for sale).

(23) "Modular homes or double-wide homes." Modular homes or double-wide mobile homes which have all of the characteristics, appearances, and design of a permanent home and a permanent perimeter/foundation walls of a continuous exterior masonry/concrete, meeting current building code requirements plus meeting the requirements of the International Code Council and/or HUD standards for manufactured housing will not be considered mobile and will be treated as other residential structures. Provided that the structure is located on the lot in a manner that the front of the structure as designed at the factory faces the street.

(24) "Modular units or double-wide units." Modular units or double-wide units which have all of the characteristics, appearances, and design of an office, commercial establishment, assembly hall, storage, governmental or similar structure and a permanent perimeter/foundation walls of a continuous exterior masonry/concrete, meeting current building code requirements plus meeting the requirements of the International Code Council and/or HUD standards for manufactured buildings will not be considered mobile and will be

treated as other office or commercial structures. Provided that the structure is located on the lot in a manner that the front of the structure as designed at the factory faces the street.

(25) "Nonconforming uses." Any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

(26) "Nursing home." One licensed by the State of Tennessee.

(27) "Permanent transportation easement." An ingress/egress easement solely used for public entering and exiting of a property through or over the easement area, having access to an existing highway, street or thoroughfare accepted by the Elizabethton City Council, conforming to all rules, regulations and specifications applicable in article 3, section A, of the Elizabethton Subdivision Regulations, and expressly stating that the easement is permanent and utilizes appropriate words of inheritance to heirs, assigns, and lien-holders in the deed of record.

(28) "Self service storage facility." A portion of land that involves the rental of multiple spaces (such as rooms, lockers, containers, parking spaces, or outdoor spaces) typically on a short-term basis to individuals or to businesses for no other purpose or use than storage, usually household goods, vehicles, excess inventory, or archived records and where the rented spaces are secured by the tenant's own or assigned lock and key. These may be also known as self-service storage, storage units, mini-storage, mini-warehouses, or storage lots.

(29) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

(30) "Street." Any public or private way set aside for public travel. The word "street" shall include the words "road," "highway," and "thoroughfare."

(31) "Structure." Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

(32) "Theatre." A place of public assembly for purpose of holding dramatic or musical performances, showing motion pictures and films, holding lectures, and similar uses.

(33) "Total floor area." The area of all floors of a building including finished attic, finished basement, and covered porches.

(34) "Yard." An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in chapters 2 through 8 of this title.

(a) "Front yard." The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.

(b) "Rear yard." The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches.

(c) "Side yard." A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

(35) "Yard sale." A sale of more than three (3) items of personal property, which have been used typically in the household of the vendor and have not been acquired for resale, conducted at the personal residence of the vendor. This shall include like terms such as attic sales, garbage sales, junk sales, lawn sales, moving sales, rummage sales, tag sales, thrift sales, or garage sales.

(36) "Microbrewery" An establishment where the primary use is a brewery which produces less than four hundred sixty-five thousand (465,000) gallons (approximately fifteen thousand (15,000) barrels) of beer annually, sells a portion of the product on the premises for on or off-site consumption, and may include a restaurant.

(37) "Brewery" An establishment where the primary use is the production and sale of beer - an alcohol produced from fermented starches - for on or off-site consumption.

(38) "Craft distillery" An establishment where the primary use is a distillery which produces less than fifty thousand (50,000) proof gallons (approximately twenty six thousand (26,000) cases) of spirits annually, sells a portion of the spirits produced on the premises and may include a restaurant.

(39) "Micro-winery" An establishment where the primary use is a winery which produces less than twenty eight thousand five hundred (28,500) gallons (approximately twelve thousand (12,000) cases) of wine annually, sells a portion of the wine produced on the premises and may include a restaurant.

(40) "Distillery" An establishment where the primary use is the production and sale of alcohol utilizing a distillation process.

(41) "Winery" An establishment where the primary use is the production and sale of wine - an alcohol from fermented fruits or fruit juices - for on or off-site consumption.

(42) "Artisan food production" A small-scale establishment in which foods and edible foodstuffs, such as breads, cheeses, fruit preserves, candies, cured meats, beverages, oils and vinegars, are processed and sold in limited quantities often using traditional methods by skilled craftworkers with little division of labor, and employs no more than 15 full-time equivalent employees.

(43) "Artisan manufacturing or assembly" A small-scale establishment in which something is produced or assembled from raw materials in limited quantities using traditional methods, employs no more than ten (10) full-time equivalent skilled craftworker employees with little division of labor, and whose

manufacturing or assembly processes produce no offensive noise, vibration, smoke, dust, odors, heat, or glare. Such an establishment shall also sell a portion of the produced products on site.

(44) "Hardline retail stores" A high impact establishment that retails goods that does not quickly wear out, or more specifically, one that yields utility over time rather than being completely consumed in one use, or retail establishment offering a wide range of consumer goods in different product categories known as "departments". This includes establishments which sell furniture or home furnishings, hardware, home centers, lawn and garden supplies, department store, warehouse club or big-box store, electronics and appliances, lumber yard and building materials, heating and plumbing equipment, and similar establishments.

(45) "Softline retail stores" A low impact establishment which retail goods to consumers that are specialized, consumed after a single use, or have a limited life (typically under three (3) years) in which they are normally consumed, and include establishments which sell fabrics, footwear, toiletries, cosmetics, stationery, art galleries, bookstores, handicrafts, musical instruments, florists, and gift shops.

(46) "Pub bar"An establishment which sells only fermented alcoholic beverages such as wine, beer, cider, or mead, for on or off premise consumption and where at least eighty percent(80%) of the alcoholic beverages for sale must come from a microbrewery or micro-winery as defined in this section.

(47) "Temporary storage container." A temporary or portable, multi-use, storage unit, container, or semitrailer that does not have a permanent foundation or footing. This includes cargo containers, portable storage containers, and semi-trailers decoupled from the tractor unit. Familiar trade names for such containers include Portable Storage on Demand or PODS. Such structures shall not be considered buildings. (2000 Code, § 14-203, as amended by Ord. #48-1, Feb. 2012, Ord. #48-16, Sept. 2012, Ord. #49-10, May 2013, Ord. #50-16, Sept. 2014, and Ord. #50-18, Oct. 2014, Ord. #54-5, Jan. 2018 ***Ch1_12-13-18***, Ord. #54-40, Dec. 2018 ***Ch1_12-13-18***, Ord. #55-7, Feb. 2019 ***Ch2_03-11-21***, Ord. #56-17, June 2020 ***Ch2_03-11-21***, and Ord. #56-25, Sept. 2020 ***Ch2_03-11-21***)

14-204. <u>Establishment of districts</u>. For the purpose of chapters 2 through 8 of this title, the City of Elizabethton, Tennessee, is hereby divided into thirteen (13) classes of districts as follows:

Residence	- R-1 District	-Low Density
Residence	- R-1A District	- Low Density
Residence	- R-2 District	- Medium Density
Residence	- R-3 District	- High Density
Medical	- Residential	- M-R District
Business	- B-1 District	- Neighborhood Business
Business	- B-2 District	- Arterial Business

Business	- B-3 District	- Central Business
Business	- B-4 District	- Intermediate Business
Manufacturing	- M-1 District	- Restricted Manufacturing and Warehousing
Industrial	- M-2 District	- Heavy Industrial
Floodway	- F-1 District	- Floodway
Floodway	- F-2 District	- Floodway Fringe Area

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Elizabethton, Tennessee," dated August, 1971, and all amendments thereof, which is a part of chapters 2 through 8 of this title and which is on file in the office of the city clerk. Unless otherwise specifically indicated on the map, the boundaries of districts are lot line or the center lines of streets or alleys or such lines extended, the corporate limit line or a line midway between the main tract of a railroad or the center lines of streams or other water bodies. Questions concerning the exact locations of district boundaries shallbe determined by the board of zoning appeals. (2000 Code, § 14-204)

14-205. Application of regulations. Except as herein provided:

(1) Use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, and after approval of a properly prepared site plan.

(2) Street frontage. No dwelling shall be erected on a lot which does not abut on at least one (1) street for at least fifty feet (50'), except that lots fronting on cul-de-sacs may have a minimum road frontage of thirty feet (30') if the lot is at least fifty feet (50') in width at the building line. Provided, however, that when only one (1) piece of property is being subdivided into no more than two (2) tracts, thirty feet (30') road frontage shall be sufficient for one (1) tract, if the tract is no larger than one-half (1/2) of an acre or not smaller than one fourth (1/4) acre, provided that the other tract has a minimum of sixty feet (60') frontage and each tract or parcel meets all the other requirements of the Elizabethton Subdivision Regulations[1] and Zoning Ordinance.[2]

(3) Corner lots. The minimum width of a side yard along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located.

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[1]The subdivision regulations are of record in the planning and development office.

[2]Municipal code reference
Zoning ordinance: title 14, chapters 2--8.

(4) One principal building on a lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot. Group housing and planned unit developments or commercial developments may have more than one (1) principal building per lot provided that a site plan has been approved by the planning commission.

(5) Reduction of lot size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area, or other provisions of chapters 2 through 8 of this title shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

(6) Yard and other spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of chapters 2 through 8 of this title shall be included as a part of a yard or other open space required under chapters 2 through 8 of this title for another building.

(7) Conformity to subdivision regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time, such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Elizabethton Regional Planning Commission and such approval is entered in writing on the plat by the secretary of the commission, or the lot fronts upon a permanent transportation easement.

(8) Customary accessory buildings and gazebos in residential districts.

(a) Accessory buildings are permitted provided they are located in rear yards and not closer than five feet (5') to any property line. Detached carports and detached garages are permitted provided they are located in rear yards or in side yards, and not closer than five feet (5') to any property lines, and meet the setback requirements for the zone in which the lot is located. Accessory buildings shall also comply with the setback from the intersecting street and not cover more than twenty percent (20%) of any required rear yard.

(b) Gazebos shall be allowed within residential districts if they meet the following conditions:

(i) No gazebo shall exceed one hundred (100) square feet.

(ii) All gazebos must meet front and side yard set backs.

(iii) A gazebo's appearance must be similar in design as the principal dwelling.

(iv) All gazebos must be in compliance with Elizabethton Municipal Code § 14-207.

(v) A gazebo must meet flood requirements if located in a flood zone.

(vi) A gazebo must be anchored in such a fashion as to prevent movement from wind and seismic activity.

(vii) No gazebo shall be constructed or installed until the property owner submits building plans for approval.

(viii) No gazebo shall be constructed or installed without the submission for approval of a site plan stating the location of the gazebo, the dimensions of the lot and the setbacks.

(9) Building area. On any lot within an R-1 Residential District, the area occupied by all buildings including accessory buildings shall not exceed thirty percent (30%) of the total area of such lot. In R-2 and R-3 Residential Districts, lot area occupied by all buildings including accessory buildings shall not exceed thirty-five percent (35%) of the total area of such lot.

(10) Height and density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, or to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

(11) Annexations. All territory which may hereafter be annexed to the City of Elizabethton, Tennessee, shall be considered to be in the R-1 Low Density Residential District until otherwise classified.

(12) Telephone microwave towers. Telephone microwave towers shall be set back the distance from all adjoining property lines equal to the height of the tower.

(a) Location. Tower structures shall not be permitted in R-1, R-2, R-3, and M-R Residential Zoning Districts.

(b) Setback. All support buildings and equipment, including guy wires, shall be subject to the minimum setback requirements for a primary use of the zoning district where the tower structure is located.

(c) Signs. No signs shall be located on any tower structure.

(d) Support buildings equipment. Support buildings and equipment associated with a tower structure shall have a maximum height of fifteen feet (15') and a maximum square footage of two hundred (200) square feet.

(e) Inspection. If upon inspection by the chief building official or designee, a tower structure fails to comply with applicable building codes, the tower structure owner has thirty (30) days to bring it into compliance with such standards. Failure to bring it into compliance within thirty (30) days shall constitute grounds for removal by the city at the expense of the tower structure owner.

(f) Abandonment. If any tower structure is not in use for twelve (12) consecutive months, it shall be deemed abandoned by the chief building official and be removed by the owner of the tower structure. Failure to remove the tower structure within ninety (90) days shall constitute grounds for removal by the city at the expense of the tower structure owner.

(g) Site plan approval. A site plan drawn to scale indicating the location and height of the tower structure and any new improvements,

including any additional site and tower structure modifications, shall be submitted to the chief building official for administrative review.

(h) Approval/denial. Within sixty (60) days of the receipt of the completed application and the required filing fee of one hundred dollars ($100.00) the chief building official shall notify the applicant of the approval or denial of the application. In the event of a denial the reason will be stated therefor. In the event the chief building official fails to notify the applicant within sixty (60) days after receiving the completed application, the application shall be deemed approved.

(i) Special exception review. The application for the installation of a new tower, or for the installation of a replacement tower whose height exceeds the height of the existing tower, shall be subject to review by the board of zoning appeals as a special exception. The board of zoning appeals may impose additional conditions to minimize any adverse effects.

(13) Driveways and street curb cuts. (a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(i) "Curb return." The portion of a street curb or alley curb at the street or alley intersections.

(ii) "Driveway." An area on private property where automobiles and other vehicles are operated or allowed to stand.

(iii) "Driveway approach." Any area, construction, or facility between the roadway of a public street and private property which is used for an entrance or exit of vehicles and is intended to provide access for vehicles from the roadway of a public street to something definite on private property such as a parking area, a driveway, or a door.

(b) It shall be unlawful for any person, firm, corporation, association, or others, to cut, build, or maintain a driveway across a curb or sidewalk, or cut a curb or street, or conflict with a driveway in any way to a street within the City of Elizabethton, Tennessee, without first obtaining a permit from the building official, which permit shall cost thirty dollars ($30.00), payable at the time the permit is obtained.

(c) All driveways and parking areas must be paved, within the setback as established by the City of Elizabethton's Zoning Ordinance, with either asphalt concrete or Portland cement concrete as specified by the building official. Any sidewalk section of the driveway approach shall be finished and scored as specified by the building official.

(d) No residential driveway approach shall be permitted within twenty-five feet (25') of the edge of a cross street or within five feet (5') of the curb return, whichever is greater. No commercial driveway approach including the curb return shall be permitted within seventy-five feet (75')

of the edge of a cross street or within ten feet (10') of the curb return, whichever is greater. See Figure 1.[1]

(e) No driveway or series of driveway approaches serving other than residential property shall be permitted to be constructed in such a way that the exit from such property would be accomplished by backing vehicles into a street right-of-way or roadway.

(f) Not more than one (1) driveway approach shall be permitted per lot when the lot is seventy-five feet (75') or less in width fronting on any street. Additional driveway approaches for lots fronting more than seventy-five feet (75') on a street shall be at the discretion of the building official. The building official shall use as the basis for judgment such factors as street design and capacity, traffic counts, surrounding land use, and other established engineering guidelines.

(g) Driveways shall not be permitted at locations hidden from the user of the public street, as where sight distance problems exist.

(h) Horizontal approach angles between the centerline of the driveway and the centerline of the public street shall be a minimum of seventy degrees (70°).

(i) The width of a driveway approach shall not exceed the following dimensions:

(i) The maximum width for residential driveways shall be fifteen feet (15') for single driveways and twenty-four feet (24') for double driveways not including turning radii.

(ii) The maximum width for commercial driveways shall be forty feet (40'), not including turning radii. See Figure 2.[2]

(14) Sidewalks. (a) All new streets constructed in the city shall have sidewalks constructed on both sides of each street in accordance with such specifications established by subdivision regulations of the Elizabethton Regional Planning Commission.

(b) For the purpose of this subsection, a sidewalk network shall be defined as a continuous sidewalk, including street crosswalks, for a minimum length of five hundred feet (500') with two (2) or more sidewalk intersections.

(c) All new, non-single-family developments within one-half (1/2) mile of a sidewalk network in a residential zone or within one-quarter (1/4) mile of a sidewalk network in a commercial zone shall be required to construct a sidewalk in the public right-of-way between the edge of the pavement or top of the curb and the front property line of the development in accordance with specifications established in the

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[1]Figure 1 is available for review in the office of the city clerk.

[2]Figure 2 is available for review in the office of the city clerk.

subdivision regulations. If enough public right-of-way is not available, the developer may dedicate additional property for the sidewalk to the right-of-way or establish an easement the width of the sidewalk for public usage.

(15) Warehousing and storage in the B-3 Central Business District and B-4 Intermediate Business District. No warehousing and storage shall be permitted in the B-3 Central Business District and the B-4 Intermediate Business District except as necessary to a permitted principal use and shall be in a completely enclosed building. Mobile units, truck trailers and temporary storage units shall not be permitted. Vehicles not necessary to a permitted principal use shall not be permitted. (2000 Code, § 14-205, as amended by Ord. #47-22, Dec. 2011, Ord. #48-16, Sept. 2012, and Ord. #54-26, July 2018 ***Ch1_12-13-18***)

14-206. Continuance of nonconforming uses. Any lawful use of any building or land existing at the time of the enactment of the provisions of chapters 2 through 8 of this title or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of chapters 2 through 8 of this title with the following limitations:

(1) No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of chapters 2 through 8 of this title for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of building which were manifestly arranged or designed for such use prior to the time of enactment of the provisions of chapters 2 through 8 of this title.

(2) Any nonconforming building which has been damaged by fire or other causes may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five percent (75%) of its appraised value for tax purposes, in which case any repair or reconstruction shall be in conformity with the provisions of chapters 2 through 8 of this title.

(3) When a nonconforming use of any building or land has ceased for a period of one (1) year, it shall not be reestablished or changed to any use not in conformity with the provisions of chapters 2 through 8 of this title. (2000 Code, § 14-206)

14-207. Obstruction of vision at street intersections prohibited. In all districts except the B-3 (Central) Business District, no fence, wall, shrubbery, or other obstruction to vision between the height of three feet (3') above the street grade shall be permitted within twenty feet (20') of the intersection of the right-of-way of streets, or the intersection of streets and railroads, or of the intersection of streets and driveways. (2000 Code, § 14-207)

14-208. Off-street automobile parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereinafter established, except in the B-3 (Central) Business District. Should private off-street parking be desired in the B-3 (Central) Business District, such parking shall be located to the rear of the structure on the lot. The number of automobile parking spaces provided shall be at least as great as the numbers specified below for various uses. Each space shall be at least nine feet (9') wide and eighteen feet (18') long and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

(1) Places of religious worship. Five (5) spaces for each one-thousand (1,000) gross square feet on-street parking immediately adjacent to the property may be subtracted from the total required.

(2) Clubs and lodges. One (1) space for each three hundred (300) square feet of floor space over one thousand (1,000) square feet.

(3) Dwellings. One (1) space for each dwelling unit, except assisted living facilities, in which case one space for each two (2) units.

(4) Funeral parlors. One (1) space for each four (4) seats in the chapel.

(5) Gasoline stations and similar establishments. Two (2) spaces for each bay or similar facility plus one (1) space for each employee.

(6) Hospitals and nursing homes. One (1) space for each two (2) employees, and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.

(7) Hotel and motels. One (1) space for each four (4) employees plus one space for each two (2) guest rooms.

(8) Offices. Two (2) spaces for each one thousand (1,000) square feet of floor space.

(9) Places of public assembly. One (1) space for each four (4) seats in the principal assembly room or area.

(10) Recreation and amusement areas without seating capacity. One (1) space for each five (5) customers, computed on maximum service capacity.

(11) Restaurants.

(a) Fast food. Nine (9) spaces for each one thousand (1,000) square feet of gross floor space.

(b) Sit-down. Seven (7) spaces for each one thousand (1,000) square feet of gross floor space.

(12) Retail business and similar uses. Three (3) spaces for each one thousand (1,000) square feet of gross floor space.

(13) Schools. One (1) space for each faculty member, plus one (1) space for each four (4) pupils except in elementary and junior high schools.

(14) Mobile home parks. Mobile home parks shall meet the requirements of the Elizabethton Mobile Home Park Ordinance.

(15) Wholesale business. One (1) space for each three (3) employees on maximum seasonal employment.

(16) Financial services. Three (3) spaces for each one-thousand (1,000) square feet of gross floor space.

(17) Bicycle parking. One (1) bicycle rack capable of holding a minimum of five (5) bicycles shall be required within forty feet (40') of the main public entrance for all establishments required to provide off-street parking and within one-quarter (1/4) mile (as measured by street centerlines) of an existing trail system.

Required off-street parking may be shared between land uses by utilizing the shared parking factor table, so long as the parking is within four hundred feet (400') from the main public entrance of the building. Shared parking shall only be allowed for the uses specified in the shared parking factor table. Total required parking for both uses shall be divided by the shared parking factor and the quotient shall be the total required parking for both land uses. Establishments wishing to utilize shared parking shall be required to submit a plat showing an easement of the areas that are designated for shared parking. Additionally, the easement shall make specific arrangements between the parties for future maintenance, care, and repair of the shared parking easement and any appropriate infrastructure.

Shared Parking Factor Table

	Residential	Hotels	Office	Retail	Sit-down Restaurants	Religious Worship	Schools
Residential	1	1.1	1.4	1.2	1.2	1.1	1
Hotels	1.1	1	1.7	1.3	1.3	1.1	1
Office	1.4	1.7	1	1.2	1.2	1.7	1
Retail	1.2	1.3	1.2	1	1	1.4	1
Sit-down Restaurants	1.2	1.3	1.2	1	1	1.2	1
Religious Worship	1.1	1.1	1.7	1.4	1.2	1	1.7
Schools	1	1	1	1	1	1.7	1

(Ord. #50-07, June 2014, as replaced by Ord. #55-2, Jan. 2019 ***Ch2_03-11-21***)

14-209. Off-street loading and unloading space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

(1) Retail business. One (1) space of at least twelve by twenty-five feet (12' x 25') for each three thousand (3,000) square feet of floor area or part thereof.

(2) Wholesale and industrial. One (1) space of at least twelve by fifty feet (12' x 50') for each ten thousand (10,000) square feet of floor area or part thereof.

(3) Terminals. Sufficient space to accommodate the maximum number of vehicles that will be stored and loading and unloading at the terminal at any one time. (2000 Code, § 14-209)

14-210. Inclusion of floodplain provisions.[1] (1) For the purpose of chapters 2 through 8 of this title, land considered subject to flood shall be that land lying below the elevation of the one percent (1%) probable flood on the Doe and Watauga Rivers, Vicinity of Elizabethton, Tennessee (Tennessee Valley Authority, July, 1968).[2]

(2) A floodway district, as shown on the Zoning Map of Elizabethton, Tennessee, is established to enable the Doe and Watauga Rivers to carry increased flows of water in time of flood. The provisions which accompany the floodway district prevent encroachments into the district which would increase the flood heights and property damage. In this manner loss of life and excessive property damage is lessened or prevented.

(3) Lands lying outside this floodway district, but within the area subject to flood by a one percent (1%) probability flood, are in the floodway fringe areas. These areas are subject to certain provisions which seek to lessen flood damage, in addition to being subject to the provisions of the land use district in which they lie. For example, part of a low density residential district may also be in the floodway fringe area. This part of the residential district would be subject to the provisions pertaining to the floodway fringe area. (2000 Code, § 14-210)

14-211. Group housing and planned unit development. A group housing project is defined as any group of two (2) or more buildings to be constructed on one (1) parcel of land. A planned unit development is one defined as a comprehensive residential or commercial development where project design does not include standard street, lot, and subdivision arrangements, and where shares, property, or units are to be sold. Group housing or planned unit development projects may be allowed upon review and approval by the Elizabethton Planning Commission provided that the following are met:

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[1]Municipal code reference
Floodplain zoning ordinance: title 14, chapter 14.

[2]Ord. #71-1 is available in the city clerk's office.

(1) A site plan showing the location of proposed buildings, roads, drives, parking, utilities, drainage, and any other information necessary for review must be presented to the planning commission.

(2) In no case shall the planning commission approve a use prohibited, or a smaller lot area per family than the minimum required or a greater height, or a larger lot coverage than permitted in the district where the project is located.

(3) A one (1) acre minimum lot size is required where two (2) or more structures are to be constructed on a single lot.

(4) When property is subdivided for the purpose of selling either proposed or existing townhouses, duplexes, or similar housing units, the following requirements apply:

(a) Side yard setbacks will not be required where housing units connect at property lines;

(b) Road frontage requirements may be reduced to thirty feet (30') width;

(c) Each parcel of land shall be treated as an individual lot and shall meet lot size requirements, density requirements, and all other provisions of the Elizabethton Subdivision Regulations and Zoning Ordinance.

(5) Public and private roads in all development in which property is to be subdivided must be constructed to standards set forth in the Elizabethton Subdivision Regulations. All common driveways and parking areas for group housing developments and planned unit developments must be paved with hot asphalt or concrete pavement prior to final approval.

(6) A plat for the conversion of rental units to condominiums must be approved by the Elizabethton Planning Commission.

(7) Preliminary or design approval and final or recording approval shall be required for all condominium developments approved by the planning commission before any units can be sold. For condominium projects to be developed in stages or phases, preliminary or design approval shall be required on the entire project with final or recording approval required at the completion of each stage of construction before any units can be sold. (2000 Code, § 14-211)

14-212. <u>Shopping centers</u>.[1] A shopping center is defined as a group of commercial establishments, planned, developed, owned and managed as a unit with off-street parking provided on the property; however, this shall not apply to a group of commercial establishments containing no more than four (4) separate commercial establishments in one (1) structure containing a total of not more than seven thousand five hundred (7,500) square feet of floor area.

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[1]Municipal code reference
Shopping centers: title 14, chapter 11.

The owner or lessee of any shopping center shall submit to the planning commission a plan meeting all of the requirements set forth in this section. The planning commission may require additions or changes to the plan prior to granting final approval. Should approval of the plans be denied by the planning commission an appeal for approval may be made to the Elizabethton City Council.

(1) The plan submitted shall be drawn to scale and shall show all roads and drainage, existing and proposed, drives and parking areas, building lines enclosing the portion of the tract within which buildings are to be erected, typical groups of buildings which might be erected within the building lines shown, boundaries of tracts, proposed use of land and buildings. The relation of the project to the street system and to the surrounding property, and to surrounding use districts shall be shown. In addition the following information shall be shown:

(a) Existing zone.

(b) Number of parking spaces in relation to the gross leasable space or other parking criteria.

(c) Location and size of parking spaces and direction of traffic flow.

(d) Truck loading and unloading areas.

(e) Proposed curb cuts.

(f) Existing and proposed utilities and fire hydrants.

(g) Location and type of signs.

(h) Location of dumpster sites and construction detail showing wash down facilities when applicable.

(i) Cross section showing pavement construction.

(j) Surface water drainage plan showing direction of water flow ditches, culverts, catch basins, detention ponds and drainage ways and easements.

(k) Required setback distances and proposed setback distances from buildings to adjoining property lines.

(l) An erosion and sedimentation control plan may be required when applicable.

(m) Plans shall be properly signed, sealed and dated by an architect or engineer.

(n) A landscaping plan shall be provided showing the location and type of landscaping proposed for the project.

(2) The plan for a shopping center shall meet as a minimum, the following specifications and requirements.

(a) The aggregate of all buildings proposed shall not exceed thirty percent (30%) of the entire lot area of the project. All buildings shall be setback not less than sixty feet (60') from all streets bounding the project area.

(b) There shall be customer parking facilities as follows:

(i) For recreation or amusement buildings, restaurants or other establishments serving food or drinks: one (1) parking space for each one hundred (100) square feet of total floor space in the building.

(ii) Theater or any place of public assembly; one (1) parking space for each six (6) seats.

(iii) Clinic or medical or dental offices: five (5) parking spaces for each professional occupant.

(iv) Hotel or motel: one (1) parking space for each guest room.

(v) Other permitted uses: five (5) parking spaces for each one thousand (1,000) square feet of gross leasable space.

(vi) Each mercantile establishment shall provide one (1) space ten feet by fifty feet (10' x 50') for truck loading and unloading, for each ten thousand (10,000) square feet, or fraction thereof, in the building provided, however, that a loading space adjacent and accessible to two (2) buildings may be used to serve both buildings if the aggregate area of both does not exceed ten thousand (10,000) square feet.

(c) The streets, parking areas and walks shall be paved with hard surface material meeting applicable specifications of the city engineer.

(d) Any part of the project area not used for buildings or other structures, parking, loading and access ways, shall be landscaped with grass, trees, shrubs or pedestrian walks. The planning commission may require additional landscaping to maintain the aesthetic characteristics of the community and enhance the appearance of the neighborhood.

(e) The shopping center buildings shall be designed as a whole unified and single project or in stages following the approved general plan and separate building permits may be taken out for separate portions of said property after final approval has been granted.

When outparcels have their own access to public streets or permanent transportation easements and the outparcel lot meets all the zoning requirements for an individual business except that it has not been subdivided from the shopping center property, planning commission approval is not required for the development of the outparcel. If the development of the outparcel alters traffic flow or parking of the existing shopping center, review by the planning commission shall be required.

(3) A building or premises may be used only for the following purposes:

(a) Stores and shops conducting retail business.

(b) Personal, business, and professional services.

(c) Offices, hotels, motels, and restaurants.

(d) Amusements and recreation.

(4) No building shall exceed three (3) stories in height, except by permission of the city council.

No structure of any kind shall exceed fifty feet (50') in height, provided that this limitation shall not apply to:

(a) Chimneys;
(b) Cooling towers;
(c) Ornamental towers and spires;
(d) Radio and television towers, antennae or aerials;
(e) Stage towers or scenery lofts;
(f) Water tanks and towers.

(5) Prior to approval of a shopping center plan the planning commission may make additional requirements concerning but not limited to, the limitation of uses, landscaping, lighting, signs and advertising devices, screening or planting, setback and height of buildings, paving and location of drives and parking areas, drainage and the location of access ways, taking into consideration the character of the surrounding area so as to protect adjoining residentially zoned lots or residential uses, to provide for public safety and prevent traffic congestion. (2000 Code, § 14-212, as amended by Ord. #48-16, Sept. 2012)

14-213. Flea markets. Where flea markets are permitted in the B-2 (Arterial) Business District and M-2 Heavy Industrial District by approval of a special use, the following standards shall be complied with, in addition to any conditions placed on the special use, and title 9 of the Elizabethton City Code.

(1) Adequate water, restroom facilities, and garbage disposal shall be provided if found necessary based on the size, frequency and duration of the market.

(2) A site plan is required and shall include parking, lighting, signage, location and number of tables, tents, and other display areas. Also, ingress and egress must be shown on the site plan. The approved site plan will be a part of the conditional use permit. If inside sales are to be conducted on the same parcel, then a statement shall be provided denoting the total square footage of all indoor retail space that is planned. An adequate amount of parking for indoor retail space shall be reflected on the site plan.

(3) A minimum thirty foot (30') front setback and a minimum twenty foot (20') setback shall be maintained from the remaining property lines in which no display of merchandise is allowed.

(4) No adverse effect on adjoining properties, including but not limited to, excessive or untimely noise or lighting, overflow parking, or visual problems potentially affecting property values or marketability, is found.

(5) No manufactured buildings shall be permitted.

(6) All tables, facilities and structures shall be maintained in a well-kept and attractive manner.

(7) All temporary structures or facilities, including but not limited to, canopy frames, merchandise, display tables, tents, and other material and equipment must be stored in an enclosed principal building or removed from the premises when the flea market is not in operation. Trailers, pods, and other temporary storage units shall not be allowed in the day-to-day operation unless they can be screened so as to not be visible from any street, road, or residential property.

(8) Operation of the market shall be confined to Friday, Saturday, Sunday, and holidays, unless other dates are specifically approved by the city council in conjunction with a special events permit which shall not exceed five (5) consecutive days. The hours of operation shall be posted on the property.

(9) Flea markets shall only be conducted during the months of April through October. During the period of November 1 to March 31, all temporary structures, fixtures, or facilities, including but not limited to, canopy frames, merchandise, display tables, tents, and other material and equipment must be stored in an enclosed principal building, removed from the premises, or otherwise screened from public view. (Ord. #50-16, Sept. 2014)

14-214. Yard sales. No more than eight (8) days of yard sales shall be allowed in any given calendar year at a property without a business license. A business license shall be required to operate a yard sale in excess of eight (8) days in any given calendar year. (Ord. #50-18, Oct. 2014)

14-215. Temporary storage containers. Temporary storage containers are intended to provide temporary storage of household goods on residential property and business specific goods on business or industrial zoned lands. Such temporary structures shall not interfere with the normal operation of the permanent use on the property and shall not be detrimental to property or improvements in the surrounding areas. There shall also be no risk of injury to persons as a result of such storage.

(1) For B-2 (Arterial) Business District, M-1 (Manufacturing-Warehouse) Restricted Manufacturing and Warehouse District, and M-2 (Industrial) District:

(a) Permitted Types. Temporary or portable storage containers and semitrailers.

(b) Location. Side or rear yards with a setback of five feet (5') from side and rear property lines.

(c) Size. The volume shall not exceed two thousand (2,000) cubic feet (approximately 20 x 10 x 10 feet) or a semitrailer shall not exceed fifty-three feet (53') in length.

(d) Number. The sum of temporary storage containers and semitrailers shall not exceed a ratio of one (1) per ten thousand (10,000) square feet of the total area of all of the structures on the site, unless they are enclosed by a solid masonry wall, sight proof fence, a visually solid

evergreen hedge, or other year-round sight proof vegetative barrier, none of which may be less than six feet (6') in height (at planting or when being maintained).

(2) For R-l (Low Density) Residential District, R-1A (Low Density) Residential District, R-2 (Medium Density) Residential District. R-3 (High Density) Residential District, M-R (Medical-Residential) District, B-1 (Neighborhood) Business District, B-3 (Central) Business District, and B-4 (Intermediate) Business District:

(a) Permitted types: Temporary or portable storage containers.

(b) Location. Side or rear yards with a setback of five feet (5') from side and rear property lines. If, due to topography, a temporary storage container cannot be located in the side or rear yard, the front yard shall be an acceptable location so long as it is placed on an improved surface such as a driveway.

(c) Size. The volume shall not exceed one thousand two hundred (1,200) cubic feet (approximately 16 x 8 x 9 feet) nor shall the length be greater than sixteen feet (16').

(d) Number. Only one (1) container may be placed on the property at any one (1) time.

(e) Duration. A container shall not be placed on the property more than sixty (60) days in any calendar year from time of delivery to time of removal. In the event the owner of the property suffers a catastrophic loss due to fire, flood, or other physical calamity, the owner shall obtain a demolition permit and/or building permit. Such containers shall be removed within one (1) week of the demolition or building permit expiration, the issuance of a certificate of occupancy, or the issuance of a certificate of completion.

(3) On lots where there is no principal structure, the containers shall comply with the front yard setback for that zoning district in addition to the other requirements previously listed.

(4) Temporary storage structures and semitrailers are prohibited from being placed in streets or public rights-of-way or interfering with traffic visibility without advanced written permission from the city manager or their appointee.

(5) Maintenance. The area surrounding a temporary storage container or semitrailers must be maintained in a weed-free condition, shall be subject to all property maintenance standards applicable to accessory structures, and shall not be allowed to remain outside in a state of disassembly, disrepair or deterioration. (as added by Ord. #56-17, June 2020 ***Ch2_03-11-21***, and replaced by Ord. #56-25, Sept. 2020, ***Ch2_03-11-21***)

CHAPTER 3

PROVISIONS GOVERNING USE DISTRICTS

SECTION

14-301. R-1 (Low Density) Residential District.
14-302. R-1A (Low Density) Residential District.
14-303. R-2 (Medium Density) Residential District.
14-304. R-3 (High Density) Residential District.
14-305. M-R (Medical-Residential) District.
14-306. B-1 (Neighborhood) Business District.
14-307. B-2 (Arterial) Business District.
14-308. B-3 (Central) Business District.
14-309. B-4 (Intermediate) Business District.
14-310. M-1 (Manufacturing-Warehouse) Restricted Manufacturing and Warehouse District.
14-311. M-2 (Industrial) District.

14-301. R-1 (Low Density) Residential District. It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life, and to prohibit all business activities. In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Single-family dwellings excluding mobile homes.

(2) Agricultural uses (as principle use).

(3) Home occupation.

(4) Public owned and operated facilities and uses, schools, and places of religious worship provided that:

(a) The location of these uses shall first be reviewed by the Elizabethton Regional Planning Commission;

(b) The buildings, except for churches, are placed not less than fifty feet (50') from the side and real property lines; however, churches may be located with setbacks of thirty feet (30') front, ten feet (10') on each side, and twenty-five feet (25') rear, as are residences in Zone R-1;

(c) There are planted buffer strips along the side and rear property lines.

(5) Day care facilities provided:

(a) That all land area used for outdoor activities be appropriately fenced;

(b) That an adequate loading and unloading area is provided that will allow for the safe pick up and drop off of children.

(6) Residential business sign. Residential business signs and other advertising signs are defined in title 14, chapter 5. (2000 Code, § 14-301, as amended by Ord. #48-1, Feb. 2012, and Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-302. R-1A (Low Density) Residential District. It is the intent of this district to allow for construction on the smaller lots that exist in the original neighborhoods of the city while still maintaining a low density single-family residential area. The requirements for the district are designed to protect essential characteristics of the district to promote and encourage an environment for family life and to prohibit all business activities. In order to achieve the intent of the R-1A (Low Density) Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee the following uses are permitted.

(1) Single-family dwellings excluding mobile homes.

(2) Agricultural uses (as principal use).

(3) Home occupation.

(4) Public owned and operated facilities and uses, schools, and places of religious worship provided ithat:

(a) The location of these uses shall first be reviewed by the Elizabethton Regional Planning Commission;

(b) The buildings, except for churches, are placed not less than fifty feet (50') from the side and real property lines; however, churches may be located with setbacks of thirty feet (30') front, ten feet (10') on each side, and twenty-five feet (25') rear, as are residences in Zone R-1;

(c) There are planted buffer strips along the side and rear property lines.

(5) Day care facilities provided:

(a) That all land area used for outdoor activities be appropriately fenced;

(b) That an adequate loading and unloading area is provided that will allow for the safe pick up and drop off of children.

(6) Residential business sign. (2000 Code, § 14-302, as amended by Ord. #48-1, Feb. 2012, and Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-303. R-2 (Medium Density) Residential District. It is the intent of this district to provide for single family and multi-family dwellings; to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-2 (Medium Density) Residential District, as shown on the zoning map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-1 Residential District;

(2) Multiple family dwellings;

(3) Death care services, civic, cultural, and fraternal activities, ambulatory health care services, professional services, real estate services and insurance-related services provided that:

(a) A site plan must be approved by the Elizabethton Regional Planning Commission;

(b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of the bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers the site plan;

(c) They shall be located on designated arterial or collector streets;

(d) The buildings shall be placed not less than fifty feet (50') from all property lines; and

(e) There is a planted buffer strip erected on the side and rear property lines.

(4) Skilled-nursing facilities provided that:

(a) A site plan must be approved by the Elizabethton Regional Planning Commission;

(b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers the site plan;

(c) That all buildings shall be placed not less than fifty feet (50') from all property lines; and

(d) There is a planted buffer strip erected on the side and rear property lines.

(5) Accessory apartments provided that:

(a) The site meets all other requirements of the zoning ordinances such as the same building setback as for a principal residence, density requirements, building area to lot ratio, off street parking requirements, and any other requirements that would apply to a principal residence. No variance shall be granted to these requirements;

(b) Only one (1) accessory apartment shall be allowed to locate on the same lot with other multi-family principal residences; and

(c) Accessory apartments shall not be allowed on the same lot with other multi-family housing.

(6) Crematories accessory to funeral homes provided that:

(a) A site plan must be approved by the Elizabethton Regional Planning Commission;

(b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers the site plan;

(c) That all buildings shall be placed not less than fifty feet (50') from all property lines;

(d) There is a planted buffer strip erected on side and rear property lines.

(7) Rooming and boarding establishments. (Ord. #49-10, May 2013, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-304. R-3 (High Density) Residential District. It is the intent of this district to provide an area for single- and multi-family dwellings, to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-3 (High Density) Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted, in R-2 Residential District.

(2) Mobile home parks provided that they conform to requirements of the Mobile Home Park Ordinance of the City of Elizabethton.

(3) Mobile home subdivisions that have been approved by the Elizabethton Planning Commission and meet all requirements of the Elizabethton Subdivision Regulations and other provisions of chapters 2 through 8 of this title. (2000 Code, § 14-304)

14-305. M-R (Medical-Residential) District. It is the intent of this district to provide an area for residential and medical facilities and to continue the use of land within this district for this purpose; to prohibit the use of land for business and/or industrial activities and other land use which would interfere with the character of this Medical-Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Single-family dwellings, two-family dwellings, hospitals and inpatient facilities, ambulatory health care services, skilled-nursing facilities,

health and personal care stores, parking lots, professional services and business services.

(2) Financial services and softline :retail stores and similar uses.

(3) Public owned and operated facilities and uses provided that public and semi-public buildings and uses shall first be reviewed by the Elizabethton Regional Planning Commission.

(4) Microbreweries and micro-wineries.

(5) Artisan manufacturing or assembly and artisan food production. (2000 Code, § 14-305, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-306. B-1 (Neighborhood) Business District. It is the intent of this district to establish business areas to serve the surrounding residential districts. The neighborhood business district is intended to discourage strip business development and to encourage the grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the B-1 (Neighborhood) Business District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-3 (Residential) District, except for mobile home parks, day care facilities, and rooming and board establishments;

(2) Commercial centers;

(3) Grocery and food stores, health and personal care stores, hardline and softline retail stores, personal services, financial services, restaurants, and similar uses;

(4) Microbreweries and micro-wineries, and pub bars.

(5) Gasoline service stations provided that all structures including underground storage tanks shall be placed not less than twenty feet (20') from all property lines. Points of ingress and egress shall not be less than fifteen feet (15') from intersection of street lines.

(6) Artisan manufacturing or assembly and artisan food production. (2000 Code, § 14-306, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***, and Ord. #54-40, Dec. 2018 ***Ch1_12-13-18***)

14-307. B-2 (Arterial) Business District. It is the intent of this district to establish business areas that encourage groupings of compatible business activities, reduce traffic congestion to a minimum and enhance the aesthetic atmosphere of the City of Elizabethton. In this district the following uses shall be permitted:

(1) Any use permitted within a B-1 Neighborhood Business District;

(2) Hotels and motels;

(3) Automobile sales establishments;

(4) Restaurants and craft distilleries;

(5) Offices;

(6) Amusement centers;

(7) Death care services;

(8) Public owned and operated facilities;

(9) Camping related facilities;

(10) Civil, cultural, and fraternal activities.

(11) Self-service storage facilities provided that a site plan must be approved by the Elizabethton Regional Planning Commission; and

(12) Crematories accessory to funeral homes provided that:

(a) A site plan must be approved by the Elizabethton Regional Planning Commission;

(b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers site plan. (Ord. #49-10, May 2013, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-308. <u>B-3 (Central) Business District</u>. It is the intent of this district to establish an area for concentrated general business and mixed-use development that the general public requires. The requirements are designed to protect the essential characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, wholesale development, and other development which do not lend themselves to pedestrian traffic. In order to achieve the intent of the B-3 (Central) Business District, as shown on the zoning map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Hardline and softline retail stores;

(2) Personal, business, and professional services;

(3) Public owned and operated facilities, provided that public and semi-public buildings and uses shall first be reviewed by the Elizabethton Regional Planning Commission;

(4) Parking lots and garages;

(5) Offices, civic, cultural, and fraternal activities, hotels and motels, restaurants, microbreweries, micro-wineries, craft distilleries, pub bars, and similar community services;

(6) Cultural and entertainment establishments;

(7) Mixed-use buildings provided that:

(a) The residential units are located in the basement, upper levels, or the rear of the ground floor but shall not be located on the front of the ground floor with the exception of an entrance hall;

(b) Residential units shall not contain less than six hundred fifty (650) square feet of living space and not exceed fifty-one percent

(51%) of the square footage of the ground floor including any entrance hall from the front; and

(c) Off street automobile parking shall be located at city or approved private parking lot areas during normal business hours.

(8) Amusement centers.

(9) Artisan manufacturing or assembly and artisan food production. A portion of the production activities should be visible from the sidewalk through the building windows. (Ord. #50-07, June 2014, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***, and Ord. #54-40, Dec. 2018 ***Ch1_12-13-18***, and Ord. #56-16, June 2020 ***Ch2_03-11-21***)

14-309. B-4 (Intermediate) Business District. It is the intent of this district to establish an area adjacent to the B-3 (Central) Business District which will support those uses and to encourage commercial development to concentrate to the mutual advantage of consumers as well as to provide for transactions of the district, thereby strengthening the economic base and protecting public convenience. In order to achieve the intent of the B-4 (Intermediate) Business District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted in B-3 (Central) Business District.

(2) Any use permitted in R-3 Residential District except mobile home parks and rooming and boarding establishments;

(3) Public owned and operated facilities; and

(4) Amusement centers.

(5) Gasoline service station, provided it is located on a designated collector or arterial street. (2000 Code, § 14-309, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-310. M-1 (Manufacturing-Warehouse) Restricted Manufacturing and Warehouse District. This industrial district is established to provide areas in which the principal use of land is for light manufacturing and warehousing. It is the intent that permitted uses are conducted so that noise, odor, dust, and glare of each operation is completely confined within an enclosed building. These regulations are intended to prevent frictions between uses within the district and also to protect nearby residential districts, as shown on the zoning map of the City of Elizabethton, Tennessee. The following uses are permitted:

(1) Any use permitted in a B-2 (Arterial) Business District except residential units;

(2) Food and textile products manufacturing, lumber yard and heavy building material establishments, wood and paper products manufacturing, chemicals, metals, machinery, and electronics manufacturing, truck and freight transportation establishments, personal services, commercial printing and publishing establishments, miscellaneous manufacturing establishments,

freight and transportation establishments, and warehouse and storage establishments.

(3) Other uses of the same general character as deemed appropriate by the Elizabethton Regional Planning Commission:

(a) No yard will be required for that part of the lot which fronts on a railroad siding;

(b) On lots that abut a residential district, the Elizabethton Regional Planning Commission may require all buildings and improvements be properly screened and shall be located so as to comply with the side yard requirements of the adjacent residential district; and

(c) Installations essential to the business operation shall be set back from the street or alley so that services rendered by the business will not obstruct a public way. (Ord. #49-10, May 2013, as amended by Ord. #54-4, Jan. 2018 ***Ch1_12-13-18***)

14-311. <u>M-2 (Industrial) District</u>. It is the intent of this district to establish industrial areas along with open areas which will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage industrial, wholesaling, and business uses, and to discourage residential development. In order to achieve the intent of the M-2 (Industrial) District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted in the M-1 (Manufacturing-Warehouse) District except residences and mobile home parks.

(2) Any industry which does not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, fire hazard, or other objectionable conditions.

(3) <u>Adult oriented establishments</u>. Because adult oriented establishments have a deteriorating effect on property values, create higher crime rates in the area, create traffic congestion, and depress nearby residential neighborhoods and retail districts, these activities will only be permitted when minimum conditions are met.

The following minimum conditions must be complied with for a site to be approved for adult entertainment activities:

(a) The site shall not be less than one thousand feet (1,000') from any residentially zoned property at the time of approval for an adult entertainment activity.

(b) The site shall be not less than one thousand feet (1,000') from the site of any public amusement or entertainment activity, including but not limited to, the following: arcades, motion picture theaters, bowling alleys, marinas, golf courses, playgrounds, ice skating or roller skating rinks or arenas, zoos, community centers and similar amusements offered to the general public. "Amusement or entertainment

activities" in this section shall not include adult oriented establishments, and shall not reduce the distance requirements otherwise dictated by this section.

(c) The site shall be not less than one thousand feet (1,000') from any area devoted to public recreation activity.

(d) The site shall be not less than one thousand feet (1,000') from any school, library, day care center, park, church, mortuary or hospital.

(e) The site shall be not less than one-half (1/2) mile from any other adult entertainment business site.

(f) Measurement shall be made from the nearest recorded property line of the lot on which the adult oriented establishment is situated to the nearest property line or boundary of the above mentioned uses, measuring a straight line on the Elizabethton Zoning Map.

(g) Maps showing existing land use and zoning within one-half (1/2) mile of the proposed site should be submitted with an application for use on review approval along with site plans, surveys or other such special information as might reasonably be required by the planning commission for use in making a thorough evaluation of the proposal. (2000 Code, § 14-311)

CHAPTER 4

DIMENSIONAL REQUIREMENTS; MOBILE UNITS

SECTION

14-401. Area, yard, and height requirements.
14-402. Mobile units.

14-401. Area, yard, and height requirements.

District	Minimum Lot Size Requirements			Setback Requirements (ft)			Maximum Height Requirements		Building Area Percent
	Area (sq. ft.)	Additional Units	Lot Width at Building (ft.)	Front	Side	Rear	Stories	Feet	
R-1	10,000	--	50	30	10	25	3	35	30
R-1A	5,000	--	50	30	6	25	3	35	20[1]
R-2	7,500	5,000	50	30	6	25	3	35	35
R-3[2]	5,000	2,500	50	25	6	20	4	50	35
M-R Residential	7,500	5,000	50	30	8	30	3	35	30
M-R - Other	7,500	--	50	25	10	20	4	50	30
B-1	5,000	--	--	30	10	25	3	35	30
B-2	5,000	--	--	35	10	25	6	75	--

[1] If existing structures on the same block exceed this ratio, then a ratio that would average the ratio of the existing structures to land may be applied.

[2]Lots of one (1) acre or greater in size may be developed for multi-family dwellings and upon and to the following standards, upon review and approval by the Elizabethton Planning Commission: One (1) bedroom units, one thousand (1,000) square feet per unit; two (2) bedroom units, two thousand (2,000) square feet; three (3) bedroom units, three thousand (3,000) square feet per unit. Corner lots: The minimum width of a side yard along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located.

District	Minimum Lot Size Requirements			Setback Requirements (ft)			Maximum Height Requirements		Building Area Percent
	Area (sq. ft.)	Additional Units	Lot Width at Building (ft.)	Front	Side	Rear	Stories	Feet	
B-3	5,000	--	--	0-5[1]	0	10[2]	6	75	--
B-4	5,000	--	--	25	15	20	6	75	--
M-1	5,000	--	--	25	10	20	6	75	--
M-2	5,000	--	--	40	10	25	6	75	--

(Ord. #50-07, June 2014, as amended by Ord. #61-1, Jan. 2025 ***Ch4_12-11-25***)

14-402. <u>Mobile units</u>. Mobile units may be allowed to locate within the city on a temporary basis provided that use of said mobile unit conforms to all other provisions of chapters 2 through 8 of this title and provided that the mobile unit meets all applicable building code requirements. Mobile units may be used for temporary construction site offices, seasonal retail establishments, newly established businesses that plan future construction of permanent structures, and similar type uses.

A temporary occupancy permit to allow the location of mobile units may be issued by the building official for a period of one (1) year.

The extension of an occupancy permit for a period of longer than one (1) year shall be upon the review and approval of the planning commission. (2000 Code, § 14-402)

[1]No structure in this district shall be constructed further than five feet (5') from the front property line.

[2]If an alley-way borders the rear of the property, half of the alley-way width shall count towards the rear setback requirement.

CHAPTER 5

SIGNS

SECTION

14-501. Purpose and intent.
14-502. Definitions.
14-503. General regulations.
14-504. Permitted sign standards.
14-505. Permitted signs not regulated and not requiring a permit.
14-506. Signs permitted by special use permit.
14-507. Temporary sign standards.
14-508. Prohibited signs.
14-509. Computations.
14-510. Permits.
14-511. Nonconforming signs.
14-512. Enforcement.
14-513. Appeals.

14-501. Purpose and intent. The purpose of this chapter is to regulate the size, location, height, and construction of all signs placed for public observance; to protect the public health, safety, convenience and general welfare; to facilitate the creation of a convenient, attractive and harmonious community; and to enhance property values.

To these ends, these regulations are intended to promote signs that are compatible with the landscape/streetscape and architecture of surrounding buildings, including historic sites and structures; legible and appropriate to the activity to which they pertain; not distracting to motorists; and constructed and maintained in a structurally sound and attractive condition. (Ord. #45-17, Dec. 2009, as replaced by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

14-502. Definitions. For the purpose of these sign regulations, unless the context otherwise requires, the following terms shall have the meanings established as follows:

(1) "Abandoned sign." A sign structure that has ceased to be used and has failed to be kept in a good aesthetic condition, for a minimum period of six (6) months or as otherwise defined by state law.

(2) "Awning sign." A sign attached to, affixed to, or painted on an awning or canopy. See figure 1.

(3) "Banner sign." A sign made of fabric or other similar nonrigid material with no enclosing framework or electrical components that is supported or anchored on two (2) or more edges or at all four (4) corners. Banners also include nonrigid signs anchored along one (1) edge, or two (2) corners, with weights installed that reduce the reaction of the sign to wind.

(4) "Billboard." A permanent freestanding sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages accessory to the current land use of, products sold on; or the sale or lease of, the property on which it is displayed.

(5) "Copy." Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

(6) "Changeable signs." (a) Manually activated. Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.

(b) Electrically activated. Electric message boards signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. This shall include electric message boards.

(7) "Canopy sign." A sign affixed to the visible surface(s) of a ground-mounted, freestanding canopy. See figure 1.

(8) "Flag." Any fabric or flexible material with a distinctive design that is used as a symbol attached to or designed to be flown from a pole.

(a) Horizontal flag. A flag designed to be attached to a pole on one (1) specific side or be flown and displayed in a horizontal orientation.

(b) Vertical flag. A flag designed to be attached to a portable pole or support structure on multiple sides or be flown and displayed in a vertical orientation. This shall include feather flags, bow flags, bowhead flags, banner flags, wind flags, feather banners, and tear drop flags.

(c) Pennant flag. A type of long, tapering horizontal flag or triangular in shape.

(9) "Freestanding canopy." A multisided overhead structure supported partially or entirely by columns, but not enclosed by walls. The surface(s) and or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

(10) "Freestanding sign." A sign on a frame, pole, or other support structure not attached to any building. See figure 1.

(11) "Human directionals." A person who applies an advertisement on his or her person and will spin, dance, or wear costumes with promotional content in order to attract attention. This shall include human billboards, sign holders, sign wavers, sign twirlers, sandwich men and the like.

(12) "Inflatable sign." A flexible bag or tube made of fabric, rubber, latex, nylon, polychloroprene or other similar non-rigid material that can be inflated with a gas, such as helium, hydrogen, nitrous oxide, oxygen, or air. This shall include balloons, airdancers, windyman, skydancer, tube man, sky puppets, flyguy, and inflatable billboards, This shall specifically exclude any inflatable sign designed for human transportation, inflatable tents, and inflatable playhouses.

(13) "Lawn sign." A freestanding sign that is made of corrugated plastic or other material and a metal or wood frame with tines that are placed in the ground for a foundation. This shall include yard signs, bandit signs, placards, and road signs.

(14) "Monument sign." A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. See figure 1.

(15) "Off-premise outdoor signs." A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on or the sales or lease of, the property on which it is displayed and has been permitted by the Tennessee Outdoor Advertising Control Program. This shall specifically include outdoor advertising or billboards.

(16) "Projecting sign." A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Projecting signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property. See figure 1.

(18) "Political sign." A temporary sign intended to advance a political statement, cause, or candidate for an office.

(19) "Portable sign." A sign that is movable and not permanently attached to a structure or the ground. Portable signs include sandwich board signs, portable reader boards on wheels that display changeable copy, signs on trailers, balloons, and other similar signs.

(20) "Real estate sign." A temporary sign advertising the sale, auction, lease or rental of the property or premises upon which it is located or directing to a property for sale, auction, lease or rental

(21) "Roof sign." A sign erected on a roof, or signs that project above the highest point of the roofline, parapet, or fascia of a building.

(22) "Sign." Any visual graphics display visible from a public place created to be used to identify, advertise, or attract attention to a place of business, product, or a particular message. Noncommercial flags or any flags displayed from flagpoles will not be considered to be signs.

(23) "Temporary sign." A sign installed for a limited time and not constructed or intended for long-term use.

(24) "Wall sign." A sign mounted flat against and projecting less than eighteen inches (18") from, or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall. This shall include fascia signs. See figure 1.

(25) "Window sign." A sign posted, painted, placed or affixed to the interior or exterior of a window. Signs that face a window exposed to public view and located within twelve inches (12") of the window are considered a window sign.

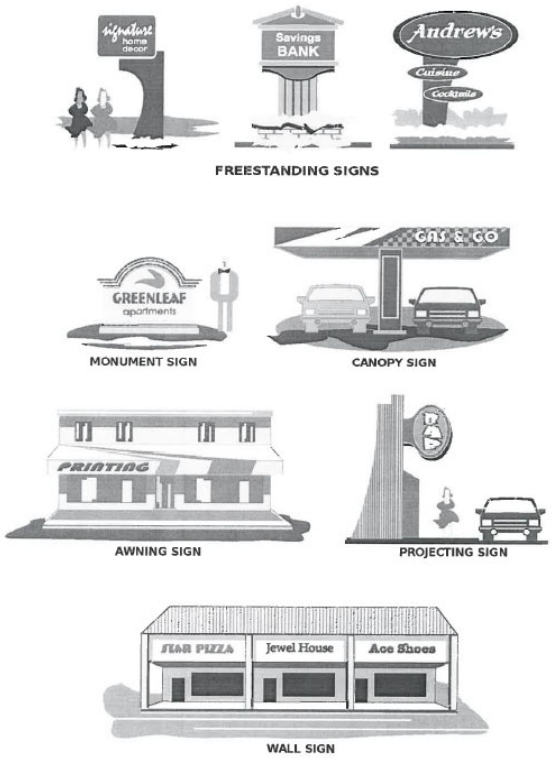
(26) "Public display of art." A hand-produced work of visual art which s tiled or painted directly upon or affixed directly to an exterior wall of a

commercial building, and has no more than twenty (20) square feet or three percent (3%) (whichever is less) of the total display area that contains text.

(27) "Roadway." A certain width of the public right-of-way that has been paved or otherwise improved (commonly from curb edge to curb edge) and intended for use by motor vehicles and bicycles.

(28) "Theater marquee." A permanent roof-like structure attached to and projecting from the facade of a theater or performing arts center used to display the name of the establishment or information about performances or events, and generally designed and constructed to provide protection from the weather. Signs may be on the vertical face of a marquee, but shall not extend below the lower edge or the upper edge of the marquee. A marquee may project over a public sidewalk or right-of-way in accordance with applicable clearance and permitting requirements.

Figure 1 - Sign Definition Illustrations



(Ord. #45-17, Dec. 2009, as replaced by Ord. #52-7, March 2016 ***Ch1_12-13-18***, and amended by Ord. #54-17, May 2018 ***Ch1_12-13-18***, and Ord. #61-21, Dec. 2025 ***Ch4_12-11-25***)

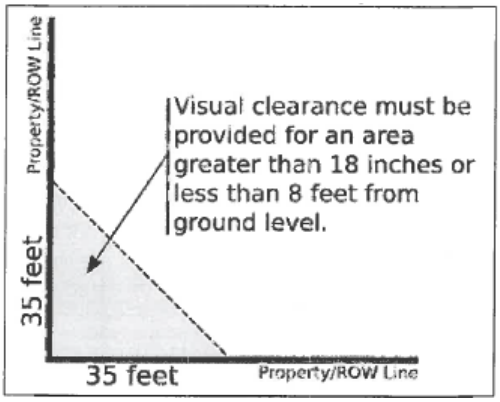
14-503. General regulations. (1) Applicability. The requirements of this code apply to all signs, sign structures, awnings, and other types of sign located within the City of Elizabethton.

(2) Hierarchy of regulations. (a) Where there is a conflict between specific sign regulations and the base or general sign regulations of this code, the specific sign regulations supersede the base sign regulations.

(b) Where there is a conflict between a land use regulation and a structural regulation, or other conflicts not otherwise addressed by this section, the most restrictive applies.

(3) Vision obstruction. No signs shall create any vision obstructions onto a public right- of-way, alley, sidewalk, adjacent drive or private drive entering onto a street. Signs located within a minimum thirty-five foot (35') triangle running parallel along each right-of-way at the intersection of two public rights-of-way shall provide a visual clearance area between eighteen inches (18") above the ground level and eight (8) feet above the ground level and shall include sign faces and sign support structures. See figure 2.

Figure 2 - Sight Distance Triangle



(4) Location requirements. Unless stated otherwise in these regulations, no sign shall be erected within five feet (5') of the edge of any roadway or within any public right-of-way (except an official traffic sign, other similar traffic control sign, or within the B-3 Central Business District where specified), placed where it would obstruct access to fire escapes, fire hydrants, fire lanes, emergency exits or similar safety areas, on public property, a utility pole or a tree unless specifically authorized by other ordinances or regulations of this jurisdiction.

(5) Sign faces. No sign shall have more than two (2) sign faces. No sign face area shall exceed the maximum allowed.

(6) Landscaping requirement. Freestanding signs must be placed in a grassed or landscaped area which shall run parallel to the sign, is at least three feet (3') in width and at least the length of the greatest dimension of the sign. Curbing, railroad ties, bricks, fencing and/or other suitable vehicular barrier shall enclose the grassed or landscaped area.

(7) Illumination. Unless otherwise provided herein, sign illumination shall only be achieved through the following standards:

(a) A white, steady, stationary light of reasonable intensity that is directed solely at the sign. The light source shall be shielded from

adjacent buildings and streets, and shall not be of sufficient brightness to cause blinding, deceptive or distracting glare that impairs driver vision on a roadway or causes a nuisance to adjacent property.

(b) Internally illumination shall provide steady, stationary lighting through translucent materials.

(c) All electrical service to ground mounted signs shall be placed underground. Electrical service to all other signs shall be concealed from public view.

(d) All illuminated signs shall be UL (Underwriters Laboratories) listed.

(e) All illuminated signs must comply with the maximum luminance level of seven hundred fifty (750) cd/m2 or Nits at least one-half (1/2) hour before apparent sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until one-half hour after apparent sunrise, as determined by the NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions.

(8) Projections over public ways. Signs, architectural projections, or sign structures projecting over public walkways must conform to the minimum height clearance of eight feet (8') and vehicular access areas must conform to the minimum height clearance of fourteen feet (14').

(9) Maintenance and repair. Every sign and sign support structure, permitted or unpermitted by this ordinance, shall be kept in good condition and repair and free from rust, fading, or any other signs of deterioration.

(10) Electrically activated changeable signs. Electrically activated changeable signs may be included on freestanding or monument signs not in the R-1 (Low Density) Residential District, provided such element:

(a) Shall not exceed thirty-three percent (33%) of the total sign face area with the exception of off-premise outdoor signs; and

(b) Shall maintain a static message for at least six (6) seconds, and shall not utilize animation or any of the techniques prohibited by these regulations; and

(c) All electrical service to the signs shall be placed underground; and

(d) Illuminated signs shall be UL (Underwriters Laboratories) listed; and

(e) All electronically activated changeable signs must comply with the maximum luminance level of three hundred (300) Nits at least one-half (1/2) hour before apparent sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date. All illuminated

signs must comply with this maximum luminance level throughout the night, if the sign is energized, until one-half (1/2) hour after apparent sunrise, as determined by the NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions.

(11) Number of signs. (a) Freestanding and monument. Unless otherwise stated in this code, the number of freestanding and monument signs shall be limited to one (1) per property held in single and separate ownership except for a property that has frontage on more than one (1) street, in which case one (1) such sign shall be permitted for each separate street frontage at one-half (1/2) of the permitted sign face dimensions permitted for the respective zone.

(i) Exception. All freestanding informational signs meeting the setback requirements in the B-1, B-2, M-1, and M-2 zones shall be exempt from this requirement and the requirements of this chapter provided they are not intended to be legible from any public street and no individual sign shall exceed a height of seven feet (7').

(b) Awning. The number of signs per building face shall not exceed the number of public entrances on the building face to which the sign is attached. (Ord. #45-17, Dec. 2009, as replaced by Ord. #52-7, March 2016 ***Ch1_12-13-18***, and amended by Ord. #54-17, May 2018 ***Ch1_12-13-18***)

14-504. Permitted sign standards. (1) R-1 (Low Density) Residential District. (a) Monument signs:

(i) Dimensions: Maximum thirty-six (36) square feet per face; maximum five feet (5') in height along a designated arterial or collector route. Maximum eighteen (18) square feet per face; maximum five feet (5') in height along a designated local route.

(ii) Location: Five feet (5') setback from all property lines and no more than thirty feet (30') from the front property line.

(iii) Illumination: External illumination or back lit copy only between the hours of 6:00 A.M. and 11:00 P.M.

(2) R-2 (Medium Density) Residential District. (a) Monument Signs:

(i) Dimensions: Maximum forty-eight (48) square feet per face; maximum five feet (5') in height along a designated arterial or collector route. Maximum eighteen (18) square feet per face; maximum five feet (5') in height along a designated local route.

(ii) Location: Minimum five feet (5') setback from all property lines and no no more than thirty feet (30') from the front property line.

(iii) Illumination: External illumination or back lit copy only.

(b) Freestanding signs:

(i) Dimensions: Maximum forty-eight (48) square feet per face maximum twelve feet (12') in height along a designated arterial or collector route. Not permitted along designated local routes.

(ii) Location: Minimum ten feet (10') setback from all property and no more than thirty feet (30') from the front property line.

(iii) Illumination: External illumination or back lit copy only.

(iv) Materials: All metal or wooden poles or supports shall be enclosed.

(c) Wall signs; and:

(i) Dimensions: Maximum of twenty-one (21) square feet per running linear foot.

(ii) Location: Between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roofline if the building is only one (1) story.

(iii) Illumination: External illumination or back lit copy only.

(iv) Number: The number of signs per building face shall not exceed one (1) plus the number of public entrances on the building face to which the sign is attached.

(d) Awning signs:

(i) Dimensions: Maximum sign copy or graphics, as defined herein, area of ten percent (10%) of the area of the façade to which the awning is attached. Sign projections shall not exceed six feet (6') with a minimum eight foot (8') ground clearance.

(ii) Location: The top of the awning shall be between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roof line if the building is only one (1) story.

(iii) Illumination: External illumination only.

(iv) Number: The number of awning signs per building face shall not exceed the number of entrances on that building face.

(v) Material: Covering shall be made from cloth, vinyl, acrylic, eradicable fabric or other flexible, cloth-like material with a matte finish. Metal, wood, or hard plastic shall be explicitly prohibited.

(3) R-3 (High Density) Residential District. (a) Monument signs:

(i) Dimensions: Maximum sixty-four (64) square feet per face; Maximum six feet (6') in height along a designated arterial or

collector route. Maximum eighteen (18) square feet per face; maximum five feet (5') in height along a designated local route.

(ii) Location: Minimum five feet (5') setback from all property lines and no more than thirty feet (30') from the front property line.

(iii) Illumination: External illumination or back lit copy only.

(b) Freestanding signs:

(i) Dimensions: Maximum sixty-four (64) square feet per face; maximum fifteen feet (15') in height along a designated arterial or collector route. Not permitted along designated local routes.

(ii) Location: Minimum ten feet (10') setback from all property lines and no more than thirty feet (30') from the front property line.

(iii) Illumination: External illumination or back lit copy only.

(iv) Materials: All metal or wooden poles or supports shall be enclosed.

(c) Wall Signs; and:

(i) Dimensions: Maximum of one (1) square feet per running linear foot.

(ii) Location: Between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roofline if the building is only one (1) story.

(iii) Illumination: External illumination or back lit copy only.

(iv) Number: The number of signs per building face shall not exceed one (1) plus the number of public entrances on the building face to which the sign is attached.

(d) Awning signs:

(i) Dimensions: Maximum sign copy or graphics, as defined herein, area of ten percent (10%) of the area of the façade to which the awning is attached. Sign projections shall not exceed six feet (6') with a minimum eight foot (8') ground clearance.

(ii) Location: The top of the awning shall be between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roof line if the building is only one (1) story.

(iii) Illumination: External illumination only.

(iv) Number: The number of awning signs per building face shall not exceed the number of entrances on that building face.

(v) Material: Covering shall be made from cloth, vinyl, acrylic, eradicable fabric or other flexible, cloth-like material with a matte finish. Metal, wood, or hard plastic shall be explicitly prohibited.

(4) B-1 (Neighborhood) Business District and M-R (Medical-Residential) District. (a) Monument signs:

(i) Dimensions: Maximum ninety-eight (98) square feet per face; maximum eight feet (8') in height.

(ii) Location: Minimum five feet (5') setback from all property lines.

(iii) Illumination: External or internal illumination.

(b) Freestanding signs:

(i) Dimensions: Maximum ninety-eight (98) square feet per face; maximum twenty feet (20') in height.

(ii) Location: Minimum ten feet (10') setback from all property lines.

(iii) Illumination: External or internal illumination.

(iv) Materials: All metal or wooden poles or supports shall be enclosed.

(c) Wall signs:

(i) Dimensions: Maximum of three (3) square feet per running linear foot.

(ii) Location: Between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roofline if the building is only one (1) story.

(iii) Illumination: External or internal illumination.

(iv) Number: The number of signs per building face shall not exceed one (1) plus the number of public entrances on the building face to which the sign is attached.

(d) Canopy signs:

(i) Dimensions: Maximum of forty percent (40%) of the total canopy face area.

(ii) Location: Signage shall only be permitted on a maximum of three (3) canopy faces.

(iii) Illumination: External and internal illumination.

(e) Awning signs; and:

(i) Dimensions: Maximum sign copy or graphics, as defined herein, area of fifteen percent (15%) of the area of the façade to which the awning is attached. Minimum eight foot (8') ground clearance.

(ii) Location: The top of the awning shall be between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roof line if the building is only one (1) story.

(iii) Illumination: External and internal illumination.

(iv) Number: The number of awning signs per building face shall not exceed the number of entrances on that building face.

(v) Material: Covering shall be made from cloth, vinyl, acrylic, eradicable fabric or other flexible, cloth-like material with a matte finish. Metal, wood, or hard plastic shall be explicitly prohibited.

(f) Window signs:

(i) Dimensions: Maximum of twenty percent (20%) of the total ground-level floor window square footage. For structures where ground-level floor windows span multiple interior floors, the interior height of the ground level floor shall be applied to the exterior windows to perform the calculation. The total square footage of the exterior windows of the building may be used in the calculation by special exception.

(ii) Location: Ground-level floor of the building.

(iii) Illumination: None.

(5) B-2 (Arterial) Business District. (a) Monument signs:

(i) Dimensions: Maximum one-hundred sixty-two (162) square feet per face; maximum ten feet (10') in height.

(ii) Location: Minimum five feet (5') setback from all property lines.

(iii) Illumination: External or internal illumination.

(b) Freestanding signs:

(i) Dimensions: Maximum one-hundred sixty-two (162) square feet per face; maximum twenty-five feet (25') in height.

(ii) Location: Minimum ten feet (10') setback from all property lines.

(iii) Illumination: External or internal illumination.

(iv) Materials: All metal or wooden poles shall be enclosed.

(c) Wall signs:

(i) Dimensions: Maximum of three (3) square feet per running linear foot.

(ii) Location: Between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roofline if the building is only one (1) story.

(iii) Illumination: External or internal illumination.

(iv) Number: The number of signs per building face shall not exceed one (1) plus the number of public entrances on the building face to which the sign is attached.

(d) Canopy signs:

(i) Dimensions: Maximum of forty percent (40%) of the total canopy face area.

(ii) Location: Signage shall only be permitted on a maximum of three (3) canopy faces.

(iii) Illumination: External and internal illumination.

(e) Projecting signs:

(i) Dimensions: Maximum of twelve (12) square feet. Projection over a public sidewalk shall be a maximum of four feet (4') with a minimum eight foot (8') ground clearance.

(ii) Location: No projecting sign shall extend in a vertical dimension above the highest architectural point of the façade to which it is mounted.

(iii) Illumination: External and internal illumination.

(iv) Number: The number of projecting signs per building face shall not exceed the number of entrances on the building face to which the sign is attached.

(f) Awning signs; and:

(i) Dimensions: Maximum sign copy or graphics, as defined herein, area of fifteen percent (15%) of the area of the façade to which the awning is attached. Minimum eight foot (8') ground clearance.

(ii) Location: The top of the awning shall be between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roof line if the building is only one (1) story.

(iii) Illumination: External and internal illumination.

(iv) Number: The number of awning signs per building face shall not exceed the number of entrances on that building face.

(v) Material: Covering shall be made from cloth, vinyl, acrylic, eradicable fabric or other flexible, cloth-like material with a matte finish. Metal, wood, or hard plastic shall be explicitly prohibited.

(g) Window signs:

(i) Dimensions: Maximum of twenty-five percent (25%) of the total ground-level floor window square footage. For structures where ground-level floor windows span multiple interior floors, the interior height of the ground level floor shall be applied to the exterior windows to perform the calculation. The total square footage of the exterior windows of the building may be used in the calculation by special exception.

(ii) Location: Ground-level floor of the building.

(iii) Illumination: None.

(6) B-3 (Central) Business District and B-4 (Intermediate) Business District. (a) Wall signs:

(i) Dimensions: Maximum of two (2) square feet per running linear foot.

(ii) Location: Between the architectural openings in the ground-level floor of the building and the architectural openings in the preceding floor or roof line if the building is only one (1) story or, for businesses with a concrete canopy along East Elk Avenue, between the canopy and the architectural openings in the preceding floor.

(iii) Illumination: External illumination only.

(iv) Materials: The wall sign shall be able to be flush mounted to the building.

(v) Number: The number of signs per building face shall not exceed one (1) plus the number of public entrances on the building face to which the sign is attached.

(b) Projecting signs:

(i) Dimensions: Maximum of thirty-two (32) square feet. Projection over a public sidewalk shall be a maximum of two-thirds (2/3) of the width of the sidewalk with a minimum of eight foot (8') ground clearance, per § 14-503(8).

(ii) Location: No projecting sign shall extend in a vertical dimension above the highest architectural point of the facade to which it is mounted. Should the building to which the sign is being mounted abut a sidewalk canopy structure the projecting sign shall be mounted no closer than four feet (4') from the top of the sidewalk canopy structure.

(iii) Illumination:

(A) If the projecting sign is part of a theater marquee sign installation, internal illumination shall be allowed so long as push-through acrylic lighting and a constant stream of light are used; or

(B) External illumination only.

(iv) Number: The number of projecting signs per building face shall not exceed the number of entrances on the building face to which the sign is attached.

(c) Awning signs; and:

(i) Dimensions: Maximum sign copy or graphics, as defined herein, area of fifteen percent (15%) of the area of the façade to which the awning is attached. Projection over a public sidewalk shall be a maximum of two-thirds (2/3) of the width of the sidewalk with a minimum eight foot (8') ground clearance.

(ii) Location: The top of the awning shall be between the architectural openings in the ground-level floor of the building and

the architectural openings in the preceding floor or roof line if the building is only one (1) story.

(iii) Illumination: External illumination only.

(iv) Number: The number of awning signs per building face shall not exceed the number of entrances on that building face.

(v) Material: Covering shall be made from cloth, vinyl, acrylic, eradicable fabric or other flexible, cloth-like material with a matte finish. Metal, wood, or hard plastic shall be explicitly prohibited.

(d) Window signs:

(i) Dimensions: Maximum of eight (8) square feet or twenty percent (20%) of the total ground level floor window square footage, whichever is greater. For structures where ground-level floor windows span multiple interior floors, the interior height of the ground level floor shall be applied to the exterior windows to perform the calculation. The total square footage of the exterior windows of the building may be used in the calculation by special exception.

(ii) Location: Ground-level floor of the building.

(iii) Illumination: None.

(e) Theater marquee signs:

(i) Dimensions: The marquee shall not exceed one hundred seventy-five (175) square feet in total area. It shall not exceed seven feet (7') in height.

(ii) Number: One (1) marquee sign shall be allowed per street frontage.

(iii) Height clearance: Eight feet (8') over public walkways and fourteen feet (14') over vehicular access areas, per § 14-503(8).

(iv) Projection: The marquee may not encroach into any vehicular access area and must be one foot (1') from any curb line.

(v) Location: The marquee shall be installed between the architectural openings in the ground-level floor of the building. Should the building to which the sign is being mounted abut a sidewalk canopy, a theater marquee shall not be allowed.

(vi) Illumination: External or internal illumination.

(7) M-1 (Warehouse) Industrial District and M-2 (Manufacturing) Industrial District.(a) Monument signs:

(i) Dimensions: Maximum one-hundred sixty-two (162) square feet per face; maximum ten feet (10') in height.

(ii) Location: Minimum five feet (5') setback from all property lines.

(iii) Illumination: External or internal illumination.

(b) Freestanding signs:

(i) Dimensions: Maximum one-hundred sixty-two (162) square feet per face; maximum twenty-five feet (25') in height.

(ii) Location: Minimum ten (10) feet setback from all property lines.

(iii) Illumination: External or internal illumination.

(iv) Materials: All metal or wooden poles shall be enclosed.

(c) Wall signs:

(i) Dimensions: Maximum twenty percent (20%) of the building elevation facade to which the sign will be attached.

(ii) Location: Between the top of the architectural openings in the ground-level floor of the building and one foot (1') below the roof line.

(iii) Illumination: External or internal illumination.

(iv) Number: The number of signs per building face shall not exceed one (1) plus the number of public entrances on the building face to which the sign is attached.

(8) Off-premise outdoor signs. (a) Location: Off-premise signs shall be permitted within seventy-five feet (75') of any city street, highway, or Interstate with a minimum of four (4) travel lanes and shall not be any closer than one (1) driving mile in any direction to another conforming or nonconforming off-premise outdoor sign.

(b) Height: Fifteen feet (15') minimum, forty-five feet (45') maximum.

(c) Face area: Fifty-five (55) square feet minimum, four-hundred and twenty-five (425) square feet maximum per face. There shall be a maximum of two (2) faces for every billboard location.

(d) Setbacks: The base or foundation of the billboard structure shall meet all front setback requirements for the respective zone and at no point shall any portion of the sign be closer than five feet (5') from the edge of the right-of-way.

(e) Illumination:

(i) Digital off-premise outdoor signs shall be permitted anywhere off-premise outdoor signs are permitted and shall conform to § 14-503(7) of this code.

(ii) No internal illumination shall be permitted.

(9) Prohibited characteristics and materials. (a) Exposed metal support poles shall be prohibited. (Ord. #45-17, Dec. 2009, as replaced by Ord. #52-7, March 2016 ***Ch1_12-13-18***, and amended by Ord. #54-17, May 2018 ***Ch1_12-13-18***, and Ord. #61-21, Dec. 2025 ***Ch4_12-11-25***)

14-505. Permitted signs not regulated and not requiring a permit.

(1) Horizontal flags;

(2) National flags;

(3) Historical marker signs;

(4) Security and warning signs;

(5) Public signs, including but not limited to traffic signs, utility signs, parking signs, wayfinding signs and other signs displayed for governmental purposes.

(6) Temporary window signs not displayed longer than forty five (45) days.

(7) Informational signs within the setback requirements of the zone as described in § 14-503(11)(a)(i)

(8) Signs which are not visible or legible from the public roadway; however, these signs must comply with any building and construction provisions required by the City of Elizabethton.

(9) Signs carved into a building or raised in integral relief on a building.

(10) Signs required by local, state, or federal law.

(11) Public displays of art. (Ord. #45-17, Dec. 2009, as replaced by Ord. #52-7, March 2016 ***Ch1_12-13-18***, and amended by Ord. #54-17, May 2018 ***Ch1_12-13-18***)

14-506. Signs permitted by special-use permit.

(1) Banner signs; and

(2) Roof signs. (Ord. #45-17, Dec. 2009, as amended by Ord. #50-13, Aug. 2014, and replaced by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

14-507. Temporary sign standards. (1) A temporary sign requiring a permit shall be displayed for a period not to exceed ninety (90) consecutive days from the date of the issuance of the permit with a thirty (30) consecutive day rest period to immediately follow in which a temporary sign of the same type shall not be displayed.

(a) Temporary signs shall not be constructed or intended for long term use.

(b) Temporary signs shall be permitted to display messages not appurtenant to the use of products sold on or the sale or lease of the property on which it is displayed and has been permitted or off-premise.

(c) Temporary banners;

(i) Dimensions: Maximum of thirty-two (32) square feet in size. Banners exceeding thirty-two (32) square feet in size must, in addition to these temporary banner regulations, meet the regulations for a permanent wall sign in the respective zone.

(ii) Number: Maximum of one (1) banner per property or, on a multi-tenant property, per storefront.

(iii) Illumination: External only.

(d) Temporary wall signs:

(i) Dimensions: Maximum of thirty-two (32) square feet.

(ii) Location: Maximum of one (1) per street frontage in the B-1, B-2, B-3, B-4, M-1, and M-2 districts.

(iii) Number: Maximum of one (1) per street frontage.

(iv) Illumination: External only.

(e) Temporary freestanding or portable signs; and

(i) Dimensions: Maximum thirty-two (32) square feet per face and maximum height of eight feet (8'). Maximum nine (9) square feet per face and a maximum three feet (3') in width in the B-3 district.

(ii) Location: Minimum five foot (5') setback in M-R, B-1, B-2, B-4, M-1, and M-2 districts. Permitted in B-3 district with no setback requirements and allowed in the public right-of-way so long as it is not in the roadway, does not obstruct the flow of pedestrians, and is located adjacent to the front property line of the responsible party.

(iii) Number: Maximum of one temporary freestanding or portable sign per property except in the B-3 district. Maximum of one (1) temporary freestanding or portable sign per store front in the B-3 district.

(iv) Illumination: External only except in the B-3 district. No illumination is permitted in the B-3 district.

(f) Inflatable sign; and

(i) Dimensions: Maximum of four-hundred (400) cubic feet when fully inflated and a maximum height of fifteen feet (15').

(ii) Location: Must meet all setback requirements for the respective zone. Permitted in the B-2, M-1, and M-2 districts.

(iii) Illumination: None

(iv) Number: One (1) per property or one (1) per business, whichever is less or, on a multi-tenant property, one (1) per storefront.

(v) Inflatable signs designed to float, drift, or hover in the air must not float, drift, or hover higher than the maximum height for structures in the respective zoning district.

(vi) Inflatable signs must be tightly secured to an anchor and used in accordance with the manufacturer's instructions.

(g) Vertical flag signs:

(i) Dimensions: Maximum sixteen (16) square feet and maximum height of eight feet (8').

(ii) Location: Must meet all setback requirements for the respective zone. Permitted in the B-1, B-2, B-3, B-4, M-1, and M-2 districts.

(iii) Illumination: None

(iv) Number: One (1) per property or one (1) per business, whichever is less or, on a multi-tenant property, one (1) per storefront.

(2) Temporary signs not requiring a permit. (a) Political signs:

(i) Dimensions: Maximum of four (4) square feet per face and a maximum of four feet (4') in height in R-1, R-2, and R-3 zones. Maximum of thirty-two (32) square feet per face and a maximum of eight feet (8') in height in M-R, B-1, B-2, B-3, B-4, M-1, and M-2 zones.

(ii) Location: A minimum of one foot (1') setback from all property lines for all signs under four (4) square feet and minimum five foot (5') setback from all property lines for all signs over four (4) square feet.

(iii) Illumination: None.

(iv) Timing: Political signs relating to an election may be placed a maximum of ninety (90) days prior to the election day and must be removed no later than fourteen (14) days after the election day.

(v) Number: Maximum of one (1) sign per candidate or issue per parcel of property.

(b) Real estate signs:

(i) Dimensions: Maximum of four (4) square feet per face in R-1, R-2, and R-3 zones. Maximum of thirty-two (32) square feet per face and a maximum of eight (8') feet in height in B-1, B-2, B-3, B-4, M-1, and M-2 zones.

(ii) Location: A minimum of one (1') foot setback from all property lines for all signs under four (4) square feet and minimum five foot (5') setback from all property lines for all signs over four (4) square feet.

(iii) Illumination: None.

(iv) Number: One (1) per property street frontage.

(c) Lawn signs:

(i) Dimensions: Maximum of four (4) square feet and maximum height of four feet (4').

(ii) Location: A minimum of one foot (1') setback from all property lines for all signs under four (4) square feet. Permitted in the R-1, R-2, and R-3 districts.

(iii) Illumination: None.

(iv) Number: One (1) per parcel of property.

(d) Inflatable signs under four (4) cubic feet;

(e) Any non-prohibited temporary sign that will be displayed twelve (12) hours or less within a thirty (30) day period so long as all setbacks requirements are met in the respective zoning district.

(3) Temporary signs not otherwise regulated herein will be considered prohibited temporary signs. (as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***, and amended by Ord. #54-17, May 2018 ***Ch1_12-13-18***)

14-508. Prohibited signs. (1) Abandoned or dilapidated signs;

(2) Flashing, blinking, or scrolling signs, or signs with intermittent lights;

(3) Signs imitating, simulating, or resembling official traffic or government signs, signals, or municipal vehicle warnings;

(4) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign except political signs;

(5) Signs placed in public right-of-way except as otherwise permitted herein;

(6) Signs placed which obstruct public safety;

(7) Signs that exhibits statements, words or pictures of an obscene nature;

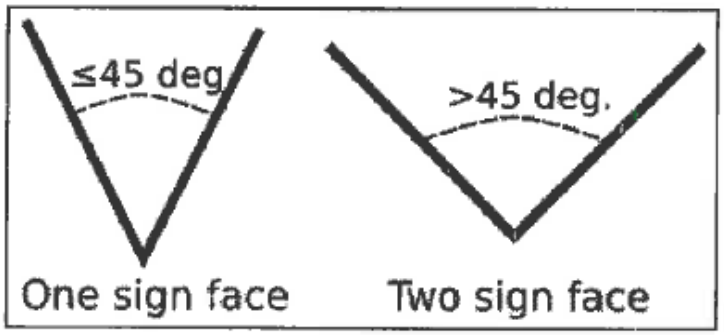
(8) Except as provided for elsewhere in this code, signs which are not specifically permitted in these sign regulations. (as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

14-509. Computations. (1) The maximum square footage for each sign type is applicable to the entire parcel where the principal structure is located.

(2) Sign cabinets. The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet.

(3) Double sided signs. Only one (1) side of a double-sided sign is counted in determining the area of sign faces. Where the two (2) sides are not of equal size, the larger of the two (2) sides is used for the determination of sign area. The area of double sided signs in which the interior angle formed by the faces is greater than forty-five (45) degrees shall be expressed as the sum of the areas of the two (2) faces. See figure 3.

Figure 3 - Sign Faces Based on Interior Angle



(4) Calculating sign area. (a) Signs containing integral background areas: The sign area shall be calculated by the area of actual background panel surrounding the sign copy in a common geometric shape or combination of geometric shapes. In the case of signs in which multiple background areas are separated by open space, sign area shall be calculated based on the sum of the areas of all separate background areas, but without regard for any open space between the separate background areas. See figure 4.

(b) Signs without integral background areas: The sign area shall be calculated by an imaginary panel drawn around the sign copy in a common geometric shape or combination of geometric shapes. In the case of signs in which multiple copy areas are separated by open space, sign area shall be calculated based on the sum of the areas of all separate copy areas, but without regard for any open space between the separate background areas. Drawn imaginary panels in cases of mixed case lettering shall include either ascenders or decenders, but not both. See figure 4.

(c) Awnings: The awning sign area shall be calculated by an imaginary panel drawn around the sign copy in a common geometric shape or combination of geometric shapes. In the case of signs in which multiple copy areas are separated by open space, sign area shall be calculated based on the sum of the areas of all separate copy areas, but without regard for any open space between the separate background areas. Drawn imaginary panels in cases of mixed case lettering shall include either ascenders or decenders, but not both. See figure 4.

(5) Height of signs. The overall height of a freestanding sign or sign structure is measured from the lowest point of the ground directly below the sign to the highest point of the freestanding sign or sign structure. See figure 5.

Figure 4 - Sign Area Computational Methodology

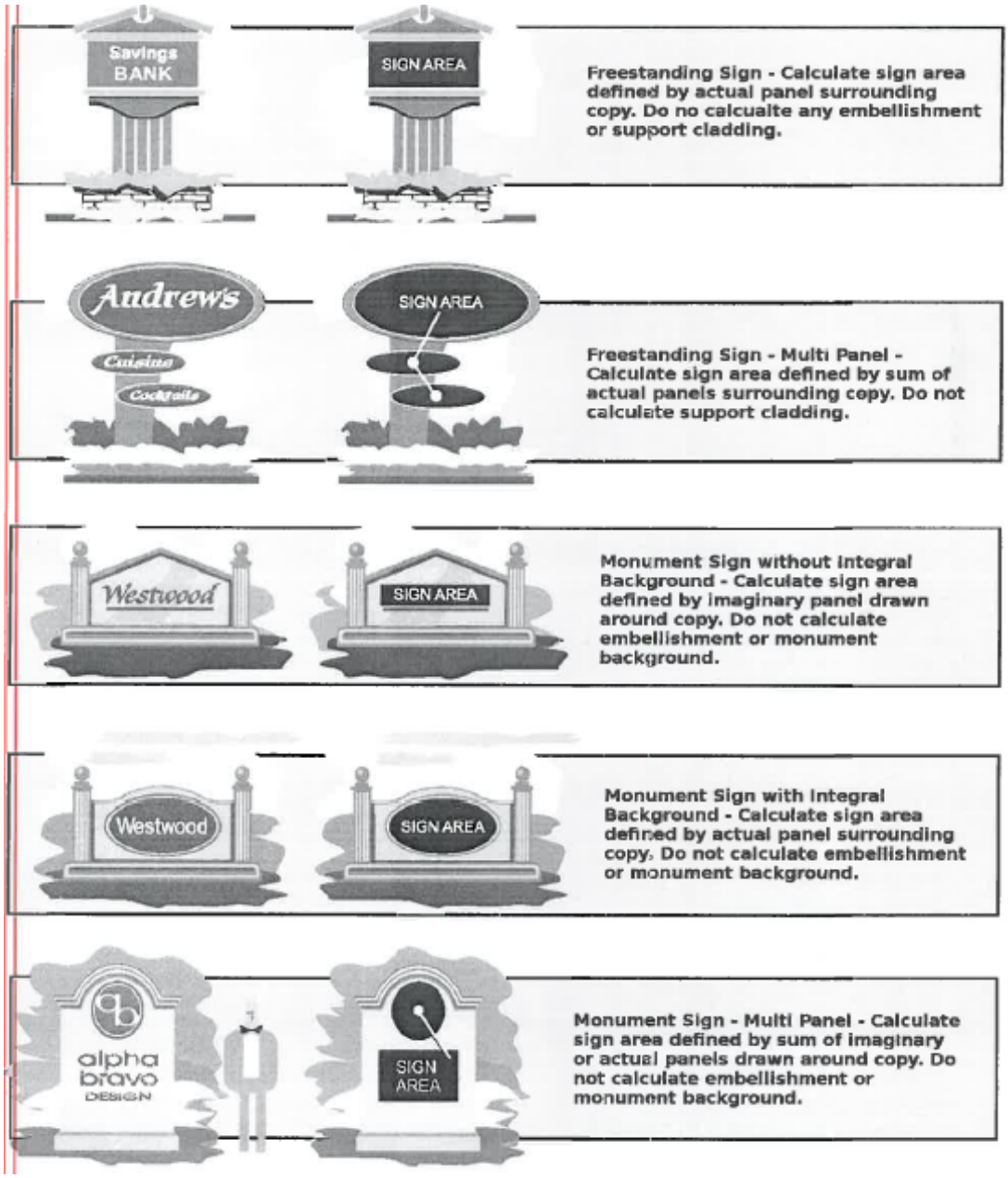


Figure 4 (continued) - Sign Area Computational Methodology

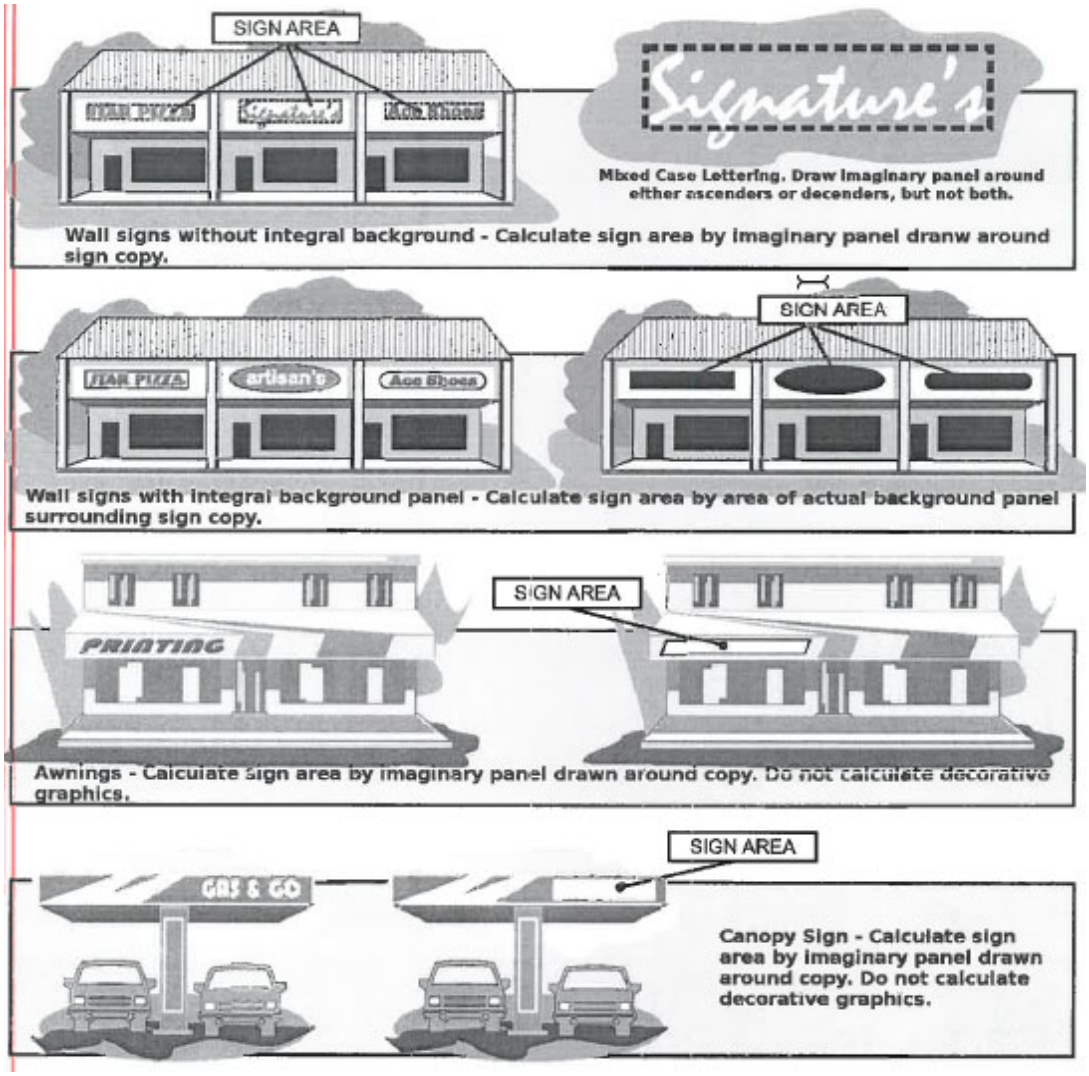
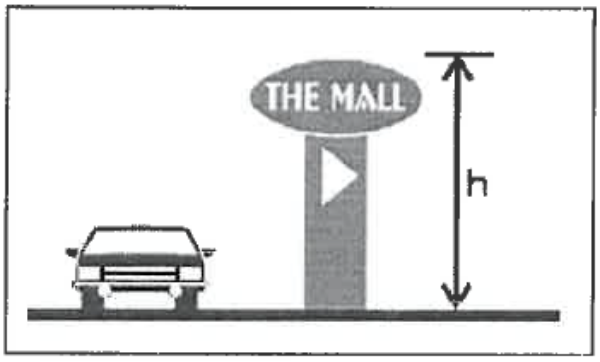


Figure 5 - Sign Height Illustration



(as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

14-510. Permits. (1) Sign permit required. Except as provided herein, no sign shall be erected, installed, used, altered, relocated, replaced, or reconstructed until a sign permit has been issued. For the purpose of these regulations, all signs are considered accessory use and accessory structures. Unless specifically qualified, all signs shall be located on the same lot with the principal use to which they pertain.

(a) All sign permit applications must be approved or denied within 30 days of the application being submitted. Failure to approve or deny the application within thirty (30) days will result in the permit being granted.

(2) Fee schedule. (a) All temporary signs shall have a sign permit application fee of ten dollars ($10.00).

(b) All other permitted signs shall have a minimum sign permit application fee of seventy five dollars ($75.00) for the first one hundred (100) square feet and one dollar ($1.00) for each additional square foot or fraction thereof.

(c) If the erection or construction of a new or replaced sign begins prior to a sign permit being issued, the sign permit fee shall be doubled. (as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

14-511. Nonconforming signs. Any sign legally existing at the time of the passage of this chapter that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming sign and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, however structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs. (as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

14-512. Enforcement. (1) The chief building official of the building codes division shall enforce the provisions of these regulations.

(2) Insecure and unsafe signs. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this chapter, the owner thereof or the person or firm using the same shall, upon written notice by the code official, immediately in the case of immediate danger, and in any case within not more than ten (10) days, make such sign conform to the provisions of this ordinance, or shall remove it. If within ten (10) days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

(3) Violations. (a) Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of these regulations.

(b) Notice of violation. Whenever the code official determines that there has been a violation of these regulations, notice of the violation shall be given to the person responsible for the violation.

(i) In order to secure the safety of motor vehicle drivers and bicyclist using the roadway, signs which are placed in the public right-of-way in violation of this chapter may be removed by the chief building official and securely stored for a period of not less than thirty (30) days and an attempt made to contact the rightful owner to notify them that the sign has been removed and may be reclaimed. At the point of reclamation, the rightful owner may be issued a notice of violation as prescribed in the following subsection. Unclaimed signs shall be disposed of after the thirty (30) day period.

(c) Prosecution of violation. Any person failing to comply with a notice of violation or order served shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal of the structure or sign in violation of the provisions of these regulations or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(d) Violation penalties. Any person who shall violate these regulations or fail to comply therein as stated in a notice of violation, shall be prosecuted within the limits provided by state or local laws. Such fines shall be a fifty dollar ($50.00) per day penal fine and other such remedial fines for each violation as the court may order. Each day that a violation continues after a notice of violation has been served shall be deemed a separate offense.

(e) Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation. (as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***, and amended by Ord. #54-17, May 2018 ***Ch1_12-13-18***)

14-513. <u>Appeals</u>. (1) <u>Filing</u>. Any person with standing, aggrieved or affected by the decision of any administrative official shall be permitted to appeal the decision as an administrative review to the board of zoning appeals under the procedure set forth in chapter 8 of this title. The decision of the board of zoning appeals shall be final.

(2) Time limit. An appeal shall only be considered if filed within thirty (30) calendar days after the cause arises or the appeal shall not be considered. If such an appeal is not made, the decision of the code official shall be considered final.

(3) Stays of proceedings. A properly filed appeal stays all proceedings from further action unless there is immediate danger to public health and safety.

(4) Severability. If any word, sentence, section, chapter or any other provision or portion of this code or rules adopted hereunder is invalidated by any court of competent jurisdiction, the remaining words, sentences, sections, chapters, provisions, or portions will not be affected and will continue in full force and effect. (as added by Ord. #52-7, March 2016 ***Ch1_12-13-18***)

CHAPTER 6

EXCEPTIONS AND MODIFICATIONS

SECTION

14-601. Lot of record.
14-602. Adjoining and vacant lots of record.
14-603. Front yards.
14-604. Exceptions on height limits.

14-601. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of chapters 2 through 8 of this title, an application may be submitted to the board of zoning appeals for a variance from the terms of chapters 2 through 8 of this title, in accordance with variance provisions established hereby. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals. (2000 Code, § 14-601)

14-602. Adjoining and vacant lots of record. A plat of land consisting of one (1) or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by chapters 2 through 8 of this title, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one (1) ownership shall be subjected to the requirements of chapters 2 through 8 of this title. (2000 Code, § 14-602)

14-603. Front yards. The front yard requirements of chapters 2 through 8 of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred feet (100') on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots. (2000 Code, § 14-603)

14-604. Exceptions on height limits. The height limitations of chapters 2 through 8 of this title shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, mast, and aerials. (2000 Code, § 14-604)

CHAPTER 7

ENFORCEMENT

SECTION

14-701. Administration.
14-702. Violations.
14-703.--14-706. Deleted.

14-701. Administration. (1) The planning director or their designee is authorized to undertake review, make recommendations, and grant approvals as permitted by planning commission policy, resolutions, and this code. The planning director or their designee shall receive all applications for site plan reviews, building permits, special-use permits, variances, and amendments to the comprehensive plan, zoning code, or zoning map and review for completeness and prepare submittals for review by the planning commission in accordance with planning commission policy and Tennessee Code Annotated, § 13-3-413.

Site plans shall be completed, in accordance with Elizabethton Municipal Code §14-205(1), with all data necessary to an extent that the planning director or their designee may determine if the city requirements policy and code are met. Incomplete applications may be returned to the applicant.

(2) The planning director or their designee shall assist the planning commission in the development, modification, and implementation of a comprehensive plan, major thoroughfare plan, and any other plans required by state law.

(3) The interpretation and application of the provision of this code shall be by the planning director or their designee. An appeal of an interpretation by the planning director or their designee shall be submitted to the board of zoning appeals, who, unless otherwise provided, is authorized to interpret the code, and such interpretation shall be considered final.

It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zone's classification, it shall be considered as permitted/non-permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. (2000 Code, § 14-701, as replaced by Ord. #54-16, May 2018 ***Ch1_12-13-18***)

14-702. Violations. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish,

equip, use, occupy, or maintain any building or land or cause or permit the same to be done in violation of this code. When any building or parcel of land regulated by this code is being used contrary to this code, the planning director or their designee shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the planning director or their designee after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with the requirements of this code. Failure to comply with the order within the time prescribed will result in a fine not less than fifty dollars ($50.00) per day, per violation. (2000 Code, § 14-702, as replaced by Ord. #54-16, May 2018 ***Ch1_12-13-18***)

14-703.--14-706. <u>Deleted</u>. (2000 Code, § 14-703--14-706, as deleted by Ord. #54-16, May 2018 ***Ch1_12-13-18***)

CHAPTER 8

BOARD OF ZONING APPEALS

SECTION

14-801. Creation and appointment--term of office and vacancies.
14-802. Procedure.
14-803. Appeals--how taken; fee.
14-804. Powers.
14-805. Action of the board of zoning appeals.
14-806. Creation of historic zoning commission.
14-807. Powers and duties.
14-808. Review of decision.
14-809. Map of the historic zoning district.

14-801. Creation and appointment--term of office and vacancies.

(1) The board of zoning appeals shall be established pursuant to Tennessee Code Annotated, § 13-7-205, and shall consist of five (5) members. All other members shall be appointed by the mayor. All members of the board shall serve without compensation.

(2) The initial board shall be appointed for five (5), four (4), three (3), two (2), and one (1) year terms. Thereafter the terms shall be for five (5) years. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his (her) pleasure. (Ord. #49-8, March 2013)

14-802. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record. (2000 Code, § 14-802)

14-803. Appeals--how taken; fee. (1) Appeal. An appeal to the board of zoning appeals may be taken by any person, firm, or corporation aggrieved or by any governmental officer, department, board, or bureau affected by any decision of the building inspector based in the whole or part on provisions of chapters 2 through 8 of this title. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal,

specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(2) Application fee. Any person, firm, or association making an appeal to the board of zoning appeals wherein a request for a zoning variance is made shall file an application for the relief sought, and shall pay an application fee to partially defray the administrative cost and costs of giving public notice. The applicant shall pay a filing fee to the City of Elizabethton as follows:

(a) Commercial request for variance $75.00

(b) Residential request for variance $50.00

(2000 Code, § 14-803)

14-804. Powers. The board of zoning appeals shall have the following powers:

(1) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of chapters 2 through 8 of this title.

(2) Special exceptions. To hear and decide special exceptions to chapters 2 through 8 of this title as set forth in chapter 5.

(3) Variances. To hear and decide applications for variance from the terms of chapters 2 through 8 of this title, but only where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the provisions of chapters 2 through 8 of this title was a lot of record; or whereby reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of chapters 2 through 8 of this title would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of chapters 2 through 8 of this title. In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of chapters 2 through 8 of this title. Before any variance is granted, it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. (2000 Code, § 14-804)

14-805. Action of the board of zoning appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the

provisions of chapters 2 through 8 of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under chapters 2 through 8 of this title, or to authorize any variance from the terms of chapters 2 through 8 of this title. (2000 Code, § 14-805)

14-806. Creation of historic zoning commission. (1) In accordance with Tennessee Code Annotated, § 13-7-401, et seq. there is hereby created a Historic Zoning Commission for the City of Elizabethton, which shall officially be known and designated as the "Elizabethton Historic Zoning Commission."

(2) The commission shall be comprised of seven (7) members which consist of a representative of a local patriotic or historical organization; an architect, if available; a member of the Elizabethton Regional Planning Commission at the time of such person's appointment; and the remainder shall be from the residents of the City of Elizabethton.

(3) The members of the commission shall be appointed by the mayor subject to confirmation by the city council. The terms of the members shall be five (5) years, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member, but not more than two (2) members, shall expire each year. All members shall serve without compensation.

(4) Meetings of the historic zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. (2000 Code, § 14-806)

14-807. Powers and duties. The historic zoning commission shall have the following powers, which shall be limited to the historic district overlay.

(1) To request detailed construction plans and related date pertinent to a thorough review of any proposal before the commission.

(2) The historic zoning commission shall within thirty (30) days following the availability of sufficient date, direct the granting of a building permit with or without conditions or direct the refusal of a building permit providing the grounds for refusal are stated in writing to the applicant no later than seven (7) days after the termination of the thirty (30) day period.

(3) Upon review of the application for a building permit, the historic zoning commission shall give prime consideration to:

(a) The historic and/or architectural value of present structure.

(b) The relationship of the exterior architectural features of such structure to the rest of the structures of the surrounding area.

(c) The general compatibility of the exterior design, arrangement, texture and materials proposed to be used.

(d) Any other factor, including aesthetic, which is deemed pertinent.

(4) In no case shall the commission grant variances from the terms of this chapter.

(5) A historic district zoning map overlay setting forth the city's historic zones and boundaries shall be recommended by the historic zoning commission to the Elizabethton Regional Planning Commission and the City Council of the City of Elizabethton. (2000 Code, § 14-807)

14-808. Review of decision. The historic zoning commission shall have exclusive jurisdiction relating to historic matters. Any person who may be aggrieved by any final order or judgment of the historic zoning commission may have said order or judgment reviewed by the courts as provided in Tennessee Code Annotated § 27-9-101, et seq. (2000 Code, § 14-808)

14-809. Map of the historic zoning district. (1) A copy of the Elizabethton Historic Zoning District map is on file in the city clerk's office.

(2) The properties identified on the map of the Elizabethton Historic Zoning District as set forth in subsection (1) above are subject to requirements set forth by the Elizabethton Historic Zoning Commission pursuant to § 14-807 of this municipal code. (Ord. #49-16, July 2013)

CHAPTER 9

AMENDMENT

SECTION

14-901. Procedure.
14-902. Approval by planning commission.
14-903. Introduction of amendment.

14-901. Procedure. The city council may amend the regulations, restrictions, boundaries, or any provision of chapters 2 through 8 of this title. Any member of the city council may introduce such amendment, or any official, board, or any other person may present a petition to the city council requesting an amendment or amendments to chapters 2 through 8 of this title.

(1) Application fee. Citizens wishing to have chapters 2 through 8 of this title amended shall file an application according to the regulations of the planning commission. To partially defray the administrative cost and cost of giving public notice, the applicant shall pay a filing fee to the City of Elizabethton as follows:

(a) Commercial amendment to the zoning map $75.00
(b) Residential amendment to the zoning map $50.00
(c) Amendment to the text of chapters 2 through 8 of this title $50.00

(2) Notice to property owners. The person requesting the rezoning must submit to the planning commission letters addressed to each property owner and resident within two hundred feet (200') of the property in question containing information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where a public hearing will be held before the planning commission. Such letter should be placed in unsealed, stamped, and addressed envelopes ready for mailing by the planning commission. The return address of the planning commission must appear on the envelope, and a list of all persons to whom letters are sent must accompany the application.

(3) Amendment conditions. (a) A site development plan shall be required for all rezonings.

(b) The rezoning of property shall be conditional upon the property owner and/or developer adhering to the site development plan.

(c) The amendment of the zoning map reclassifying property from one zone to another may be done subject to certain specific conditions when in the opinion of the planning commission and/or city council the property has unique and unusual physical or topographic features that require special consideration. These conditions may include such requirements as fencing, buffer, filling or grading, type of ingress

and egress, drainage and similar requirements. Permitted uses shall be those uses set forth in chapter 3 and no other conditions shall be placed on use. When the zoning map is amended on the condition that certain requirements are met these conditions shall be filed with the Elizabethton Building Inspector and no building or occupancy permit shall be issued until these conditions are met.

(d) In the event that conditionally zoned property is transferred or sold to another owner the property shall be developed in accordance with the original site development plan or revert back to its original zoning classification. (2000 Code, § 14-901)

14-902. Approval by planning commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval, or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of the majority of the entire membership of the city council to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said council shall be deemed favorable. (2000 Code, § 14-902)

14-903. Introduction of amendment. Upon the introduction of an amendment to chapters 2 through 8 of this title or upon the receipt of a petition to amend chapters 2 through 8 of this title, the city council shall publish a notice of such request for an amendment, together with the notice of time set for hearing by city council on the requested change. Said notice shall be published in some newspaper of general circulation in the City of Elizabethton, Tennessee. Said hearing by city council shall take place not sooner than fifteen (15) days after the date of publication of such notice. (2000 Code, § 14-903)

CHAPTER 10

EROSION AND SEDIMENTATION CONTROL ORDINANCE[1]

SECTION

14-1001. Title.
14-1002. Purpose.
14-1003. Definitions.
14-1004. General requirements.
14-1005. Erosion and sediment control design standards.
14-1006. Erosion and sediment control plans.
14-1007. Compliance.

14-1001. Title. This chapter shall be known as the "Erosion and Sedimentation Control Ordinance of the City of Elizabethton, Tennessee." (Ord. #48-25, Nov. 2012)

14-1002. Purpose. The purposes of this ordinance are to:

(1) Protect, maintain, and enhance the environment of the Elizabethton Urban Planning Region and the public health, safety and general welfare of the citizens of the region, by preventing the discharge of sediment and construction related waste to the region's stormwater system.

(2) Maintain and improve the quality of the receiving waters into which stormwater runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

(3) Comply with the State of Tennessee National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems. (Ord. #48-25, Nov. 2012)

14-1003. Definitions. For the purposes of this ordinance, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

(1) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal separate storm sewer system. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

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[1]Municipal code reference
Stormwater management: title 18.

(2) "City." The City of Elizabethton, Tennessee.

(3) "City manager." The City Manager of the City of Elizabethton, Tennessee, or a designee.

(4) "Clearing." In the definition of discharges associated with construction activity, clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for site distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. Clearing typically means the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes.

(5) "Commencement of construction or commencement of land disturbing activities." The initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

(6) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(7) "Construction related wastes." Refuse or unused materials that result from construction activities. Construction related wastes can include, but are not limited to, unused building and landscaping materials, chemicals, litter, sanitary waste, and concrete truck washout.

(8) "Construction support activities." Activities such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, or borrow areas provided all of the following are met:

(a) The support activity is primarily related to a construction site that is covered under a grading permit;

(b) The operator of the support activity is the same as the operator of the construction site;

(c) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators;

(d) The support activity does not operate beyond the completion of the construction activity of the last construction project it supports; and

(e) Support activities are identified in the erosion and sediment control plan.

The appropriate erosion prevention and sediment controls and measures applicable to the support activity shall be described in a comprehensive SWPPP covering the discharges from the support activity areas.

(9) "Development." Any man-made change to improved or unimproved property including, but not limited to, construction of buildings or other structures, clearing, dredging, drilling operations, filling, grading, paving, excavation, or storage of equipment or materials.

(10) "Erosion." The removal of soil particles by the action of water, wind, ice or other agents, whether naturally occurring or acting in conjunction with or promoted by manmade activities or effects.

(11) "Erosion and sediment control plan." A written plan required by this chapter and prepared in accordance with the Tennessee Construction General Permit that includes, but is not limited to, site map(s), identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

(12) "Exceptional Tennessee waters." Surface waters of the State of Tennessee that satisfy the characteristics of exceptional Tennessee waters as listed in chapter 1200-4-3-.06 of the official compilation, Rules and Regulations of the State of Tennessee.

(13) "Filling." Any disposition or stockpiling of dirt, rock, stumps, or other natural or man-made solid waste material.

(14) "Grading." Any excavation, filling (including fill placed in watercourses), or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(15) "Grading permit." A permit issued by the city authorizing the commencement of land disturbing activities.

(16) "Land disturbing activity." Any activity on a property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, land transporting, and excavation.

(17) "Municipal Separate Storm Sewer System (MS4)." A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) which is designed or used for collecting or conveying stormwater and is owned or operated by the City of Elizabethton.

(18) "Owner" or "operator." For the purpose of the Tennessee Construction General Permit and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two (2) criteria:

(a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

(b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a

SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of "operator."

(19) "Plan." An erosion and sediment control plan, or a small lot erosion and sediment control plan.

(20) "Priority construction activity." Construction activities that discharge directly into or immediately upstream, as defined by the city manager, from waters the state recognizes as impaired for siltation or those waters designated as exceptional Tennessee waters. A property is considered to have a direct discharge, if stormwater runoff from the property does not cross any other property before entering the water of the state.

(21) "Region." The Elizabethton, Tennessee, Urban Planning Region.

(22) "Sediment." Solid material, either mineral or organic, that is in suspension, being transported, or has been moved from its site of origin by erosion.

(23) "Small lot erosion and sediment control plan." A plan that is designed to eliminate and/or reduce erosion and off-site sedimentation from a site during construction activities, applicable to development and redevelopment sites that disturb less than one (1) acre and are not part of a larger plan of development.

(24) "Stormwater Pollution Prevention Plan (SWPPP)." The written plan required by Tennessee Construction General Permit that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

(25) "Subdivision." The division, subdivision, or re-subdivision of any lot or parcel of land as defined in the Subdivision Regulations of the Elizabethton Regional Planning Commission.

(26) "Tennessee Aquatic Resource Alteration Permit." Persons who wish to make an alteration to a stream, river, lake or wetland must first obtain a water quality permit from TDEC. Physical alterations to properties of waters of the state require an Aquatic Resource Alteration Permit (ARAP) or a section 404 permit from the U.S. Army Corps of Engineers.

(27) "Tennessee Construction General Permit" a permit issued and amended by TDEC titled General NPDES Permit for Discharges of Storm Water Associated with Construction Activities. For purposes of this chapter, the Tennessee Construction General Permit is State of Tennessee Permit Number TNR 100000 which became effective on May 24, 2011, the Tennessee Construction General Permit that is in effect on the date when the notice of coverage for a development is issued.

(28) "TDEC." The Tennessee Department of Environment and Conservation.

(29) "Tennessee Erosion and Sediment Control Handbook." The document entitled Tennessee Erosion and Sediment Control Handbook. For purposes of this chapter, the Tennessee Erosion and Sediment Control Handbook is dated August 2012, or the handbook that is in effect on the date when the notice of coverage for a development is issued.

(30) "Transporting." Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(31) "Waters" or "waters of the state." Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters. (Ord. #48-25, Nov. 2012)

14-1004. General requirements. (1) Applicability. (a) Land disturbing, construction or construction support activities that cause off-site sedimentation or sediment discharges to waters of the state shall be in violation of this ordinance.

(b) No owner or operator of any property within the region shall commence land disturbing activities unless he/she has obtained all applicable permits from city, state and federal agencies.

(c) For construction resulting in less than one (1) acre of disturbed area, excluding single-family residential construction that is part of a larger plan of development or sale, a small lot erosion and sediment control plan shall be submitted to and approved by the city manager prior to obtaining a building permit and/or commencement of any land disturbing activity. The small site erosion and sediment control plan will be included with the building permit and must be followed by the building permit holder and the owner operator. The city manager has the discretion to require a fully engineered erosion and sediment control plan as set forth in § 14-l006(2).

(d) The issuance of a grading permit shall be conditioned upon the approval of the erosion and sediment control plan by the city manager. The city shall serve as the plan approval agency only, and in no instance are its regulations to be construed as designing erosion and sediment control or other stormwater systems.

(e) No building permit shall be issued until the owner or operator has obtained a grading permit and is in compliance with the grading permit, where the same is required by this ordinance.

(f) All land disturbing activities shall employ adequate erosion and sediment control best management practices.

(2) Exemptions from plans submittal. (a) The following activities shall not require submittal and approval of an erosion and sediment control plan, or small lot erosion and sediment control plan.

(i) Minor land disturbing activities such as home gardens and individual home landscaping, repairs or maintenance work;

(ii) Additions or modifications to existing, individual, single-family structures;

(iii) Emergency work to protect life, limb or property, and emergency repairs, provided that the land area disturbed shall be shaped and stabilized in accordance with the requirements of this regulation;

(iv) Existing nursery and agricultural operations conducted as a permitted main or accessory use; and

(v) State and federal projects subject to the submission requirements of TDEC.

(b) All other provisions of this ordinance shall apply to the exemptions noted in (2)(a) above. (Ord. #48-25, Nov. 2012)

14-1005. Erosion and sediment control design standards.

(1) Adoption of standards. (a) The city adopts the Tennessee Erosion and Sedimentation Control Handbook as its erosion and sediment control design standards and best management practices standards, which is incorporated by reference into this chapter.

(b) The design, installation, operation and maintenance of construction site runoff control design standards and best management practices intended for erosion prevention and the control of sediment and other construction related wastes and/or pollutants shall be performed in accordance with the requirements of the Tennessee Construction General Permit. This requirement also applies to erosion and sediment control plan development and its contents, site inspection and documentation and reporting. Where the provisions of this section conflict or overlap with the Tennessee Construction General Permit and the Tennessee Erosion and Sediment Control Handbook, the regulation which is more restrictive or imposes higher standards or requirements shall prevail.

(c) Requirements for BMP design, installation, operation and maintenance, plan development and contents, site inspection, documentation and reporting presented in the Tennessee Construction General Permit and/or the Tennessee Erosion and Sediment Control Handbook may be updated and expanded upon, at the discretion of the city manager, based on improvements in engineering, science, monitoring, and local maintenance experience.

(d) Erosion and sediment control BMPs that are designed, constructed and maintained in accordance with the BMP criteria

presented in the Tennessee Construction General Permit and the Tennessee Erosion and Sediment Control Handbook shall be presumed to meet the minimum water quality performance standards required by the city.

(e) the additional requirements for discharges into impaired or exceptional Tennessee waters that are defined in the Tennessee Construction General Permit shall be implemented. The city manager has the discretion to require BMPs that conform to a higher than minimum standard where deemed necessary.

(2) Other guidelines. (a) No solid materials, including building materials, shall be discharged to waters of the state, except as authorized by a section 404 permit and/or Tennessee Aquatic Resource Alteration Permit.

(b) Off-site vehicle tracking of sediments is prohibited.

(c) Dust generation shall be minimized.

(d) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the plan shall provide for the necessary sediment controls. Owners/operators must also comply with applicable state and/or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent that these are located within the permitted area.

(e) Erosion and sediment control measures must be in place and functional before commencement of land disturbing activities, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day or prior to a rain event, whichever is sooner.

(f) Riparian buffer zones shall be preserved in accordance with the Tennessee Construction General Permit. (Ord. #48-25, Nov. 2012)

14-1006. Erosion and sediment control plans. (1) Requirements.

(a) The erosion and sediment control plan shall present in detail the best management practices that will be employed to reduce erosion and control sedimentation.

(b) The plan shall be sealed in accordance with the Tennessee Construction General Permit.

(c) Best management practices presented in the plan shall conform to the requirements found in the Tennessee Erosion and Sediment Control Handbook, and shall meet or exceed the requirements of the Tennessee Construction General Permit.

(d) The plan shall include measures to protect legally protected state or federally listed threatened or endangered aquatic fauna and/or critical habitat (if applicable).

(e) The plan submitted shall be subject to any additional requirements set forth in the city's subdivision regulations, zoning ordinance, or other city regulations.

(f) Construction of the site in accordance with the approved plan must commence within one (1) year from the issue date of the grading permit, or the grading permit will become null and void and the plan must be resubmitted for approval.

(2) Plan contents. Erosion and sediment control plans shall include the components of a stormwater pollution prevention plan, as required b the Tennessee Construction General Permit, and any other information deemed necessary by the city manager.

(3) Small lot erosion and sediment control plan contents. Small lot erosion and sediment control plans shall include the following information:

(a) Address/location of land disturbing activity;

(b) Owner/operator name and contact information;

(c) Building permit application number (if available);

(d) Locations of streams, wetlands, ponds, sinkholes, easements, existing drainage structures with respect to the site;

(e) A description of other construction related waste controls that are expected to be implemented on-site. Such details should include, but are not limited to: the construction/location of the vehicle wash pads; litter and waste materials control; sanitary and chemical waste control, and concrete truck washout areas;

(f) Approximate disturbed area limits; and

(g) Location of the stabilized construction entrance/egress.

(4) Application fee. Any person, firm or association making an application for approval of a site plan to the city shall file an application and shall pay an application fee to partially defray the administrative costs and shall pay a filing fee to the City of Elizabethton as follows:

Commercial site plans $75.00
Residential site plans $50.00

(Ord. #48-25, Nov. 2012)

14-1007. Compliance. (1) Conformity to approved plan. (a) The owner or operator is responsible for maintaining compliance with the approved plan and grading permit.

(b) The approved erosion and sediment control plan, shall be followed during the entire duration of construction at the site.

(c) The city manager may require reports or records from the permittee or person responsible for carrying out the plan to insure compliance.

(d) No land disturbing activity shall be allowed to commence without prior plan approval by the city manager.

(e) Priority construction activities shall not commence until the owner/operator attends a pre-construction meeting with the city manager.

(2) Amendments to the approved plan--applicability. The owner or operator shall modify and update the plan in accordance with the requirements of the Tennessee Construction General Permit.

(3) Inspections and maintenance. (a) Maintenance, site assessments and inspections of the best management practices shall be implemented in the manner specified by the Tennessee Construction General Permit and the Tennessee Erosion and Sediment Control Handbook by qualified personnel that are provided by the owner/operator of the land disturbing activity.

(b) The owner/operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner/operator to achieve compliance with this ordinance. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by an owner/operator only when necessary to achieve compliance with the conditions of this ordinance.

(c) Any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, in accordance with the inspection and maintenance timeframes stated in the Tennessee Construction General Permit and the maintenance guidance provided in the Tennessee Erosion and Sediment Control Handbook.

(d) If sediment escapes the permitted property, the owner or operator shall remove off-site accumulations in accordance with the requirements of the Tennessee Construction General Permit.

(e) Records shall be retained in accordance with the requirements of the Tennessee Construction General Permit.

(4) Inspections by the city. (a) The city manager or his/her designee shall have the right to enter onto private properties for the purposes of conducting unrestricted periodic inspections of all land disturbing activities to verify compliance with the approved plan or to determine whether such a plan is necessary.

(b) The city manager or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

(c) Failure on the part of an owner or operator to allow such inspections by the city manager or his/her designee shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(5) Enforcement, penalties, and liability. (a) Any person failing to have an approved erosion and sediment control plan prior to starting a land disturbing activity violates this ordinance.

(b) Any owner or contractor who fails to follow an approved erosion and sediment control plan shall have violated this ordinance and shall be subject to a civil penalty, a stop work order, withholding of a certificate of occupancy, and civil damages.

(c) If sediment escapes the permitted property, off-site accumulations of sediment that have not reached the stream shall be removed at a frequency sufficient to minimize offsite impacts. For example, fugitive sediment that has escaped the construction site and has collected in the street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain or so that it does not pose a safety hazard to users of public streets. Removal of fugitive sediments shall be done by the owner/operator at the owner/operator's expense. This ordinance does not authorize remediation/restoration of a stream without consultation with TDEC, nor does it authorize access by the owner/operator to other private property.

(d) The owner and/or contractor shall allow periodic inspections by the city of all land disturbing activities. Failure to allow such inspections shall be considered a failure to follow the approved plan, and shall be subject to civil penalties, a stop work order, and withholding of a certificate of occupancy.

(e) In order to gain compliance, the city manager may; notify other departments to deny service to the property until the site has been brought into compliance with this ordinance.

(f) Any person who violates any provision of this ordinance may also be liable to the city in a civil action for damages.

(g) The remedies provided for in this ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

(h) Neither the approval of a plan under the provisions of this ordinance nor compliance with the conditions of such plan shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

(i) The City of Elizabethton, pursuant to Tennessee Code Annotated § 68-221-1106, hereby declares that any person who violates this ordinance is subject to a civil penalty of not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00) per day for each day of violation. Each day of violation constitutes a separate violation.

(j) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator from the violation.

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the City of Elizabethton.

(vi) Any equities of the situation which outweigh the benefits of imposing any penalty or damage assessment.

(k) The City of Elizabethton may also assess damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating and enforcing violation of this ordinance or any actual damages caused by the violation.

(l) Appeal from any assessment of civil penalty or damages or both shall be to the Elizabethton Regional Planning Commission. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the city manager within thirty (30) days after the damage assessment or civil penalty is served upon the violator either personally or by certified mail, return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the city manager shall be deemed consent to the damage assessment or civil penalty and shall become final.

(m) Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (Ord. #48-25, Nov. 2012)

CHAPTER 11

SHOPPING CENTERS[1]

SECTION

14-1101. Shopping center district regulations.
14-1102. Application and general procedure.
14-1103. Preliminary plan.
14-1104. Minimum standards.
14-1105. Use regulations.
14-1106. Height regulations.
14-1107. Limitations.
14-1108. Approved general plan.
14-1109. Permits and licenses.
14-1110. Violations and penalty.

14-1101. Shopping center district regulations. The regulations set forth in this chapter when referred to in this chapter, are the regulations in the shopping center districts.

From and after the adoption of this chapter, no shopping center shall be developed unless located in a shopping center district. A shopping center is defined as a group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking provided on the property; however, this shall not apply to a group of commercial establishments containing no more than four (4) separate commercial establishments in one (1) structure containing a total of not more than seven thousand five hundred (7,500) square feet of floor area. (2000 Code, § 14-1101)

14-1102. Application and general procedure. The owner or lessee of any tract of land comprising an area of not less than two (2) acres may submit to the city council and planning commission a preliminary plan for the use and development of all or part of the tract for the purpose of and meeting the requirements set forth in this chapter. This preliminary plan shall be referred to the planning commission for study and recommendation. If the planning commission approves the preliminary plan, the applicant shall then submit the approved general plan in accordance with the provisions of § 14-1108, which shall then be submitted to the city council for consideration and action. The approval and recommendations of the planning commission may be accompanied by a report stating the reasons for approval and that the application meets the

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[1]Municipal code reference
Shopping centers: § 14-212.

requirements of the shopping center districts as set forth in this chapter. (2000 Code, § 14-1102)

14-1103. Preliminary plan. The preliminary plan submitted shall be drawn to scale and shall show all roads and drainage, existing and proposed, drives and parking areas, building lines enclosing the portion of the tract within which buildings are to be erected, typical groups of buildings which might be erected within the building lines shown, boundaries of tracts, proposed use of land and buildings. The relation of the project to the street system and to the surrounding property, and to surrounding use districts shall be shown. (2000 Code, § 14-1103)

14-1104. Minimum standards. The plan for a shopping center district shall meet as a minimum the following specifications and requirements:

(1) The aggregate of all buildings proposed shall not exceed thirty percent (30%) of the entire lot area of the project. All buildings shall be set back not less than sixty feet (60') from all streets bounding the project area.

(2) There shall be customer parking facilities as follows:

(a) For recreation or amusement buildings, restaurants, or other establishments serving food or drinks: One (1) parking space for each one hundred (100) square feet of total floor space in the building.

(b) Theater or any place of public assembly: One (1) parking space for each six (6) seats.

(c) Clinic, or medical or dental offices: Five (5) parking spaces for each professional occupant.

(d) Hotel or motel: One (1) parking space for each guest room.

(e) Other permitted uses: Five (5) parking spaces for each one thousand (1,000) square feet of gross leasable space.

(f) Each mercantile establishment shall provide one (1) space ten feet by fifty feet (10' x 50') for truck loading and unloading, for each ten thousand (10,000) square feet, or fraction thereof, in the building provided, however, that a loading space adjacent and accessible to two (2) buildings may be used to serve both buildings if the aggregate area of both does not exceed ten thousand (10,000) square feet.

(3) The streets, parking areas, and walks shall be paved with hard surface material meeting applicable specifications of the city engineer.

(4) Any part of the project area not used for buildings or other structures, parking, loading, and access ways, shall be landscaped with grass, trees, shrubs, or pedestrians walks.

(5) The shopping center buildings shall be designed as a whole unified and single project, or in stages following the approved general plan, as described in § 14-1108, and separate building permits may be taken out for separate portions of said property. (2000 Code, § 14-1104)

14-1105. Use regulations. A building or premises may be used only for the following purposes:

(1) Stores and shops conducting retail business.

(2) Personal, business, and professional services.

(3) Offices, hotels, motels, and restaurants.

(4) Amusements and recreation.

(5) Business signs, provided they are erected flat against the front or side wall of a building or within eighteen inches (18") thereof. Such signs shall have no flashing, intermittent, or moving illumination and shall not project above the building, and no sign which faces a dwelling district shall be illuminated.

(6) One (1) detached business sign advertising the shopping center may be erected. In addition to the shopping center name, the sign may include advertisements for one (1) or more businesses to be located in the shopping center; however, the total display surface shall not exceed two hundred fifty (250) square feet.

(7) One (1) detached business sign not to exceed two hundred (200) square feet in any single face or plane may be erected at each shopping center outside.

(8) Business signs located at shopping centers shall meet all the other requirements for business signs as set forth in title 14, chapter 5, included as the Elizabethton Sign Ordinance. The sign regulations shall be administered by the Elizabethton Building Inspector. (2000 Code, § 14-1105)

14-1106. Height regulations. (1) No building shall exceed three (3) stories in height, except by permission of the city council.

(2) No structure of any kind shall exceed fifty feet (50') in height, provided that this limitation shall not apply to:

(a) Chimneys.

(b) Cooling towers.

(c) Ornamental towers and spires.

(d) Radio and television towers, antennae, or aerials.

(e) Stage towers or scenery lofts.

(f) Water tanks and towers. (2000 Code, § 14-1106)

14-1107. Limitations. Before recommending approval of a plan within the shopping center district, the planning commission may make reasonable additional requirements concerning but not limited to the limitation of uses, landscaping, lighting, signs and advertising devices, screening or planting, setback and height of buildings, paving and location of drives and parking areas, drainage, and the location of access ways, taking into consideration the character of the surrounding area so as to protect adjoining residentially zoned lots or residential uses, to provide for public safety, and prevent traffic congestion. (2000 Code, § 14-1107)

14-1108. Approved general plan. A general plan embodying all additional requirements imposed by the planning commission shall be prepared and submitted by the applicant in the same manner as a plan of a subdivision. This plan, to be known as the approved general plan, shall be drawn to scale and shall show, in addition to requirements set forth in §§ 14-1103 and 14-1104, the boundaries of the entire district and a certificate by an engineer or surveyor that said boundaries have been surveyed and are correct. In addition, said plan shall bear a form for certificate of approval by the city council and a certificate of the owner and trustee of the mortgagee, if any, that they adopted said plan and that the premises are not encumbered by delinquent taxes. After approval by the city council, said plans shall be placed on record with the city engineer.

Provided further, that the public health, safety, morals, and general welfare of the city shall be taken into full consideration by the planning commission and/or the city council in any action coming before it in regard to the matters herein set forth. (2000 Code, § 14-1108)

14-1109. Permits and licenses. The boundaries of the shopping center district shall be established upon the approval by the city council. However, no building permit, use and occupancy permit, nor license to operate a business on the premises shall be issued until after the approval by the city council of the plan for the shopping center district or that portion thereof upon which said permit or license is sought. (2000 Code, § 14-1109)

14-1110. Violations and penalty. All things shown on the approved general plan, upon final approval by the city council, become part of the zoning regulations of the district, and nothing in conflict therewith shall be done on the premises shown on the plan. Enforcement and penalties for violations shall be as herein provided as to other zoning regulations. (2000 Code, § 14-1110)

CHAPTER 12

AIRPORT ZONING ORDINANCE

SECTION

14-1201. Short title.
14-1202. Definitions.
14-1203. Establishing airport hazard area.
14-1204. Airport reference point.
14-1205. Airport elevation.
14-1206. Zones.
14-1207. Primary surface.
14-1208. Criteria to govern height limitations.
14-1209. Use restrictions.
14-1210. Nonconforming uses.
14-1211. Permits.
14-1212. Enforcement.
14-1213. Board of zoning appeals.
14-1214. Appeals.

14-1201. Short title. This chapter shall be known and may be cited as the Airport Zoning Ordinance of the Elizabethton Municipal Airport and the map herein referred to, identified by the title, Airport Zoning Plan,[1] shall be further identified by the signature of the mayor and attested by the city clerk. (2000 Code, § 14-1201)

14-1202. Definitions. The following definitions shall apply to this chapter unless the context otherwise requires:

(1) "Airport" means Elizabethton Municipal Airport.

(2) "Airport elevation" means the established elevation of the highest point on the usable landing area.

(3) "Airport hazard" means any structure, tree, or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

(4) "Airport reference point" means the point established as the approximate geographic center of the airport landing area.

(5) "Board of zoning appeals" means a board consisting of seven (7) members appointed by the city council as provided in this chapter.

(6) "Height limitation" means the maximum elevation for the highest part that a structure may be altered, erected, or a tree allowed to grow.

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[1]The Airport Zoning Plan is of record in the city clerk's office.

(7) "Instrument runway" means a runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

(8) "Landing strip" means the area of the airport used for the landing, takeoff, or taxiing of aircraft.

(9) "Map" means the Airport Zoning Map of Elizabethton Municipal Airport.[1]

(10) "Nonconforming use" means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed in the ordinance or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

(11) "Non-instrument runway" means a runway other than an instrument runway.

(12) "Person" means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(13) "Political subdivision" means any municipality, city, town, village, or county.

(14) "Runway" means the paved surface of an airport landing strip.

(15) "Structure" means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(16) "Tree" means any object of natural growth. (2000 Code, § 14-1202, modified)

14-1203. Establishing airport hazard area. For the purpose of this chapter, an area of land and water within a radius of eight thousand feet (8,000') of the airport reference point hereinafter described and established, and within the limits of the airport approach-departure and transitional zones of the runways, is hereby declared to be the airport hazard area and the whole of such area is made subject thereto. (2000 Code, § 14-1203)

14-1204. Airport reference point. The airport reference point for this chapter is hereby declared to be Lat. 36" 22' 15" - Long. 82' 10' 26". (2000 Code, § 14-1204)

14-1205. Airport elevation. The airport elevation for this chapter is hereby declared to be 1584.75 Mean Sea Level (MSL). (2000 Code, § 14-1205)

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[1]The Airport Zoning map is available for review in the office of the city clerk.

14-1206. Zones. In order to carry out the provisions of this chapter, the airport hazard area is hereby divided into separate zones which include all of the land lying within the instrument approach-departure zone, non-instrument approach-departure zone, transitional zone, horizontal zone, and conical zone. The limits of these zones are hereby established as shown on the Airport Zoning Map[1] of Elizabethton Municipal Airport, which is hereby made a part of this chapter and the same may be amended and supplemented. The various zones are hereby established and defined as follows:

(1) Non-instrument approach-departure zone. This zone is established at each of the non-instrument runways for non-instrument landings and take-offs. The non-instrument approach-departure zone shall have a width of two hundred fifty feet (250') at a distance of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of two thousand two hundred fifty feet (2,250') at a distance of ten thousand two hundred feet (10,200') beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(2) Transitional zone. These zones extend outward from both sides of the primary surface and the approach-departure zones to an intersection with the inner horizontal, conical, and outer horizontal zones or other transitional zones.

(3) Horizontal zone. This zone is established as the area within a circle with its center at the airport reference point and having a radius of five thousand feet (5,000'). This zone does not include the instrument and non-instrument approach-departure zones and the transitional zones.

(4) Conical zone. This zone is established commencing at the periphery of the horizontal zone and extending to a distance of eight thousand feet (8,000') from the airport reference point. This zone does not include the instrument and non-instrument approach-departure zones and the transitional zones. (2000 Code, § 14-1206)

14-1207. Primary surface. This surface is symmetrically located with respect to the centerline of the landing strip. The transverse profile of primary surface is horizontal; whereas, its longitudinal profile may vary throughout its length. The elevation of any point on the longitudinal profile of the primary surface is determined by the highest ground elevation along the width of the landing strip. The primary surface for this chapter is hereby established as follows: Primary surface. This surface is two hundred fifty feet (250') wide and three thousand nine hundred feet (3,900') in length for runway 6-24 and begins two hundred feet (200') outward from each end of said runway. (2000 Code, § 14-1207)

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[1]The airport zoning map is of record in the city clerk's office.

14-1208. Criteria to govern height limitations. Except as otherwise noted in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this chapter to a height in excess of the height limit herein established from such zone. Such height limitations are computed from imaginary surfaces referenced to the airport elevation. The imaginary surface established for each of the zones in question is as follows:

(1) Approach-departure surface. This surface slopes one foot (1') in height for each twenty feet (20') in horizontal distance beginning at an elevation of 1584.75 MSL and a distance of two hundred feet (200') outward from the end of runway 6. This surface slopes outward and upward from its beginning, symmetrically about the extended centerline of the landing strip to an elevation of 2084.75 MSL at a distance of ten thousand two hundred feet (10,200') beyond the end of the runway.

(2) Approach-departure surface. This surface slopes one foot (1') in height for each twenty feet (20') in horizontal distance beginning at an elevation of 1555.55 MSL and a distance of two hundred feet (200') outward from the end of runway 24. This surface slopes outward and upward from its beginning, symmetrically about the extended centerline of the landing strip, to an elevation of 2055.55 MSL at a distance of ten thousand two hundred feet (10,200') beyond the end of the runway.

(3) Transitional surface. This surface extends outward and upward at a slope of one foot (1') in height for each seven feet (7') in horizontal distance. The maximum elevation for structures or trees located thereunder shall be the elevation of the adjacent point on the primary surface or the approach-departure surface plus one-seventh (1/7) of the distance which separates the structure or tree from the edge of the primary or approach-departure surface. The distance shall be measured in feet along the perpendicular to the landing strip or its extended centerline.

(4) Horizontal surface. This surface is at a height of one hundred fifty feet (150') above the established airport elevation. The maximum elevation of structures or trees located thereunder shall be 1734.75 MSL.

(5) Conical surface. This surface extends outward and upward at a slope of one foot (1') in height for each twenty feet (20') in horizontal distance. The maximum elevation of structures or trees located thereunder shall be 1734.75 MSL plus one-twentieth (1/20) of the distance which separates the structure or tree from the periphery of the horizontal surface. The distance shall be measured in feet along the radial from the airport reference point.

Nothing in this chapter shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to fifty feet (50') above the surface of the land. (2000 Code, § 14-1208)

14-1209. Use restrictions. Notwithstanding any other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio

communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft. (2000 Code, § 14-1209)

14-1210. Nonconforming uses. (1) Regulations not retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted.

(2) Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the city building inspector to indicate the presence of such airport hazards to the operators of aircraft in the vicinity of the airport. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Elizabethton. (2000 Code, § 14-1210)

14-1211. Permits. (1) Future uses. Except as specifically provided in subsections (1), (2), and (3) of this section, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(a) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when because of terrain, land contour, or topographic features such tree or structure would extend above the height limits prescribed for such zone.

(b) In the areas lying within the limits of the non-instrument approach-departure zone, but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runways, no permit shall be required for any tree or structure less than fifty feet (50') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such non-instrument approach-departure zone.

(c) In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground except when such tree or structure, because of terrain, land-contour, or topographic features would extend above the height limit prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions should be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limits established by this chapter except as set forth herein.

(2) Existing uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.

(3) Nonconforming uses abandoned or destroyed. Whenever the city building inspector determines that a nonconforming structure or tree has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(4) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter may apply to the board of zoning appeals for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this chapter.

(5) Hazard marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Elizabethton at its own expense to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. (2000 Code, § 14-1211)

14-1212. Enforcement. It shall be the duty of the city building inspector to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the city building inspector upon a form furnished by him. Applications required by this chapter to be submitted to the city building inspector shall be promptly considered and granted or denied by him. Applications for action by the board of zoning appeals

shall be forthwith transmitted by the city building inspector. (2000 Code, § 14-1212)

14-1213. Board of zoning appeals.[1] (1) There is hereby created a board of zoning appeals to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the city building inspector in the enforcement of this chapter;

(b) To hear and decide special exceptions to the terms of this chapter upon which such board of zoning appeals under such regulations may be required to pass;

(c) To hear and decide specific variances.

(2) The board of zoning appeals shall consist of seven (7) members appointed by the mayor and confirmed by a majority vote of the city council. The term of membership shall be five (5) years, except that the initial individual appointments to the board shall be the terms of one (1), two (2), three (3), four (4), and five (5) years, respectively.

(3) The board of zoning appeals shall adopt rules for its governance and procedures in harmony with the provisions of this chapter. Meetings of the board of zoning appeals shall be held at the call of the chairman and at such other times as the board of zoning appeals may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board of zoning appeals shall be public. The board of zoning appeals shall keep minutes of its proceedings showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the building inspector and shall be a public record.

(4) The board of zoning appeals shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this chapter.

(5) The concurring vote of a majority of the members of the board of zoning appeals shall be sufficient to reverse any order, requirement, decision, or determination of the building inspector or to decide in favor of the applicant on any matter upon which it is now required to pass under this chapter, or to effect any variation in this chapter. (2000 Code, § 14-1213)

14-1214. Appeals. (1) Any person aggrieved, or any taxpayer affected by any decision of the building inspector made in his administration of this

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[1]Included in the board of zoning appeals is the airport board of zoning appeals, which is described in title 20, chapter 1.

chapter, if of the opinion that a decision of the building inspector is an improper application of these regulations, may appeal to the board of zoning appeals.

(2) All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of zoning appeals, by filing with the building inspector a notice of appeal specifying the ground thereof. The building inspector shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the board of zoning appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of zoning appeals on notice to the agency from which the appeal is taken and on due cause shown.

(4) The board of zoning appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The board of zoning appeals may, in the conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances. (2000 Code, § 14-1214)

CHAPTER 13

TRAILERS AND TRAILER COURTS[1]

SECTION

14-1301. Definitions.
14-1302. Permits.
14-1303. Inspections.
14-1304. Location, space, and general layout required for trailer courts.
14-1305. Trailer court facilities required.
14-1306. Single trailer coaches.
14-1307. Alterations and additions.
14-1308. Registration.
14-1309. Enforcement.

14-1301. Definitions. When used in this chapter, the following words and phrases shall have the meanings indicated:

(1) "Building inspector" shall mean the Building Inspector of the City of Elizabethton, Tennessee, or his authorized representative.

(2) "Dependent trailer coach" shall mean a trailer coach that does not have a toilet and a bathtub or shower.

(3) "Electrical inspector" shall mean the Electrical Inspector of the City of Elizabethton, Tennessee, or his authorized representative.

(4) "Health officer" shall mean the Health Officer of the City of Elizabethton, Tennessee, or his authorized representative.

(5) "Independent trailer coach" shall mean a trailer coach that has a toilet and a bathtub or shower.

(6) "Plumbing inspector" shall mean the Plumbing Inspector of the City of Elizabethton, Tennessee, or his authorized representative.

(7) "Trailer coach" shall mean any mobile structure intended for or capable of being driven, propelled, or towed without a change in structure or design (does not include transport trucks or vans without sleeping space).

(8) "Trailer coach space" shall mean a plot of ground within a trailer court designated for the accommodation of one (1) trailer coach.

(9) "Trailer court" shall mean any plot of ground upon which two (2) or more trailer coaches are located or are intended to be located (does not

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[1]Municipal code references
Building, electrical, gas, and plumbing codes: title 12.
Fire code: title 7.
Garbage and refuse: title 17.
Mobile home park regulations: title 14, chapter 15.

include sites where unoccupied trailers are on display for sale). (2000 Code, § 14-1301)

14-1302. Permits. It shall be unlawful to construct, maintain, operate, or alter any trailer or trailer court within the limits of the City of Elizabethton, Tennessee, without a valid permit issued by the building inspector for the specific trailer or trailer court. Applications for permits shall be in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application, and shall contain the name and address of the applicant, the location and legal description of the trailer court or single trailer coach space, and for a trailer court, a complete plan, showing compliance with all the provisions of this chapter. Such plan shall show the area and dimensions of the trailer court site; the numbers, location, and size of all trailer coach spaces; the location, width, and proposed surfacing of all roadways and walkways; the location and dimensions of any proposed structures; the location of all water and sewer lines; and the location of all equipment and facilities for refuse disposal or other trailer court improvements.

For a single trailer coach, there is required a sketch showing compliance with all provisions of this chapter and showing the dimensions of the lot, proposed location of the trailer coach, location and dimensions of all buildings and structures on the lot, and location and dimensions of proposed sewer, water, and electrical connections to the trailer coach.

Whenever, upon inspection of any trailer coach or trailer court, the building inspector or health officer finds that conditions or practices exist which are in violation of any provision of this chapter, he shall give notice thereof in writing to the person to whom the permit was issued. Unless such conditions or practices are corrected within a reasonable period of time, the permit shall be suspended. The building inspector or health officer shall then give notice in writing that the permit has been suspended. Upon receipt of such notice of suspension, operation or use of the trailer coach or trailer court shall cease.

No trailer court permit shall be issued without the written approval of the board of zoning appeals as required by the Elizabethton Zoning Ordinance.

An annual permit for the construction and/or operation of a trailer court shall be issued by the building inspector upon annual payment of a permit fee of five hundred dollars ($500.00) provided such trailer court meets all pertinent provisions of this chapter.

Temporary one (1) month permits for single trailer coaches as permitted by the Elizabethton Zoning Ordinance shall be issued by the building inspector without fee. (2000 Code, § 14-1302)

14-1303. Inspections. The health officer, building inspector, plumbing inspector and electrical inspector are hereby authorized and directed to make inspections to determine the condition of trailer coaches and trailer courts located within the limits of the City of Elizabethton, Tennessee, in order to

perform their duties of safeguarding the health and safety of the occupants and of the general public. (2000 Code, § 14-1303)

14-1304. Location, space, and general layout required for trailer courts. The trailer court site shall be located on a well-drained site, properly graded to insure proper drainage. All trailer courts shall be located in areas free from marshes, swamps, stagnant pools, or other potential breeding places for insects or rodents.

The area of the trailer court site shall be large enough to contain at least ten (10) trailer coach spaces and other space as required in this chapter and to meet the yard and building area requirements of the Elizabethton Zoning Ordinance. There shall be a minimum of three thousand (3,000) square feet of total site area for each trailer coach located or intended to be located in the trailer court.

A trailer court site shall front on a public street with at least a thirty foot (30') right-of-way, and there shall be two (2) separate roadways, surfaced at least twenty feet (20') wide, for ingress and egress to the site.

Each trailer coach space shall contain a minimum of one thousand two hundred (1,200) square feet, shall be at least thirty feet (30') wide, and shall abut on a driveway with unobstructed access to a public street. Each space shall be clearly marked. There shall be a minimum of twenty feet (20') between adjacent trailer coaches.

One (1) auto parking space of two hundred (200) square feet, separate from roadways, shall be provided for each trailer coach space. Such parking spaces may be provided within the trailer coach space or in a common parking area.

Each trailer camp site shall include common space for outside drying, playgrounds, and other common facilities totaling at least one thousand (1,000) square feet per trailer coach space in addition to the area required for trailer coach spaces, roadways, and parking spaces.

It shall be illegal to allow any trailer coach to remain in a trailer court unless a trailer coach space is available.

It shall be illegal to park a trailer coach so that any part of such coach will obstruct any roadway or walkway. (2000 Code, § 14-1304)

14-1305. Trailer court facilities required. It shall be illegal to park or use a dependent trailer coach in any trailer court within the limits of the City of Elizabethton, Tennessee.

Municipal water supply connections shall be provided to each trailer coach space. Piping and connections shall be as specified and approved by the plumbing inspector.

Municipal sanitary sewer connections shall be provided to each trailer coach space. Piping and connections shall be as specified and approved by the

plumbing inspector. When not in use, any sewer connection shall be covered by an odor-free and fly-tight cap.

A laundry room with laundry trays or tubs and hot water may be provided. If provided, all piping and heating equipment shall be as specified and approved by the plumbing inspector. No service building shall be located less than twenty feet (20') from any trailer coach space. Service buildings shall be of permanent construction, adequately ventilated and lighted, and built as specified and approved by the building inspector.

A refuse container meeting the requirements of § 17-106 in this code shall be provided for each trailer coach space and all refuse shall be stored, collected and disposed of in accordance with title 17, chapter 1.

Accumulations of debris, weeds, or other conditions favoring the breeding of insects and rodents shall not be permitted in the trailer court. The court operator shall carry out all measures proposed by the health officer for insect and rodent control.

A 110 volt weatherproof electrical outlet shall be provided for each trailer coach space as specified and approved by the electrical inspector. All power lines shall be installed either underground or at least eighteen feet (18') above the ground.

Liquefied petroleum gas for cooling purposes shall not be used at individual trailer coach spaces unless the containers are properly connected by copper or other suitable metallic tubing as specified and approved by the plumbing inspector. No gas container shall be located in the trailer coach nor within five feet (5') of a trailer coach door. Fires shall be made only in suitable stoves. No refuse shall be burned on the trailer court site. Fire hydrants shall be located within five hundred feet (500') of each trailer coach space. The trailer court operator shall carry out all fire prevention measures recommended by the Elizabethton Fire Department. (2000 Code, § 14-1305)

14-1306. Single trailer coaches. Occupied independent trailer coaches shall be permitted only in approved trailer courts and in certain areas:

(1) Not to exceed one hundred eighty (180) days from the date of passage of this ordinance until June 30, 2025; and

(2) Not to exceed thirty (30) days beginning on July l, 2025 as specified in the Elizabethton Zoning Ordinance. Occupied dependent trailer coaches shall not be permitted within the limits of the City of Elizabethton. Single independent trailer coaches outside an approved trailer court shall be connected to the municipal water and sanitary sewer systems as specified and approved by the plumbing inspector. Electrical connections shall be as specified and approved by the electrical inspector.

Any single trailer coach must meet the area, yard, setbacks, and other requirements of the Elizabethton Zoning Ordinance. (2000 Code, § 14-1306, as as replaced by Ord. #61-2, Jan. 2026 ***Ch4_12-11-25***)

14-1307. Alterations and additions. No permanent additions of any kind shall be built onto nor become a part of any trailer coach, whether inside or outside a trailer court. Skirting of coaches is permissible, but such skirting shall not attach the coach permanently to the ground, provide a harbor for rodents, nor create a fire hazard.

The wheels of a trailer coach shall not be removed except as necessary for repairs. Jacks or stabilizers may be placed under the frame of the coach. (2000 Code, § 14-1307)

14-1308. Registration. Each trailer court operator shall keep a complete and permanent register listing each car license number and state; names, age, and sex of occupants of each trailer; and dates of admission and departure from the court. The health officer shall be notified immediately of communicable diseases in trailer courts. (2000 Code, § 14-1308)

14-1309. Enforcement. These regulations shall be enforced by the building inspector or health officer. Any person who shall willfully neglect or refuse to comply with any of the provisions of these regulations shall be deemed guilty of a misdemeanor and upon conviction for such violation shall be fined under the general penalty clause in the adopting ordinance for this municipal code of ordinances. (2000 Code, § 14-1309)

CHAPTER 14

FLOODPLAIN ZONING ORDINANCE

SECTION

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14-1401. Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1402. Objectives. The objectives of this ordinance are:

(1) To protect human life, health, safety and property;

(2) To minimize expenditure of public funds for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(6) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(7) To ensure that potential homebuyers are notified that property is in a floodprone area;

(8) To maintain eligibility for participation in the NFIP. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1403. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "Special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFlP.

(17) "Existing structures" see "Existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "Flooding":

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(i) The overflow of inland or tidal waters.

(ii) The unusual and rapid accumulation or runoff of surface waters from any source.

(iii) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(ii) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undennining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(i) of this definition.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "Floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "Flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing

flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Elizabethton, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Letter of Map Change (LOMC)" means an official FEMA determination, by letter, that amends or revises an effective flood insurance rate map or flood insurance study. Letters ofmap change include:

(a) "Letter of Map Amendment (LOMA)." An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property or structure is not located in a special flood hazard area.

(b) "Conditional Letter of Map Revision Based on Fill (CLOMR-F)." A determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed.

(c) "Letter of Map Revision Based on Fill (LOMR-F)." A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(d) "Conditional Letter of Map Revision (CLOMR)." A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA, to revise the effective FIRM.

(e) "Letter of Map Revision (LOMR)." Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

(38) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(39) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(40) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for

parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(41) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(42) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(43) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(44) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(45) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(46) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(48) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(49) "100-year flood" see "Base flood."

(50) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(51) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood

hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(52) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(53) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(54) "Regulatory flood protection elevation" means the "base flood elevation" plus the "freeboard." In "special flood hazard areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one foot (1'). In "special flood hazard areas" where no BFE has been established, this elevation shall be at least three feet (3') above the highest adjacent grade.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A 1-30, AE or A99.

(57) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A 1-30, AE, A99, or AH.

(58) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(59) "State coordinating agency" the Tennessee Emergency Management Agency, State NFIP Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(60) "Structure" for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(61) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(62) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement, or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(c) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;

(d) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(63) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(64) "Variance" is a grant of relief from the requirements of this ordinance.

(65) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(66) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #47-2, Jan. 2011, as amended by Ord. #49-6, March 2013, and replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1404. Application. This ordinance shall apply to all areas within the incorporated area of the City of Elizabethton, Tennessee. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1405. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Elizabethton, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47019C0100E, 47019C0158E, 47019C0160E, 47019C0165E, 47019C0170E, 47019C0180E dated September 26 2008; 47019CIND0C dated September 08 2022; and 47019C0185F dated February 14 2025, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance. (Ord. #47-2, Jan. 201, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1406. Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1407. Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1408. Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1409. Interpretation. In the interpretation and application of this Ordinance, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body and;

(3) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1410. Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Elizabethton, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1411. Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Elizabethton, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1412. Designation of ordinance administrator. The chief building official is hereby appointed as the administrator to implement the provisions of this ordinance. (Ord. #49-6, March 2013, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1413. Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(1) Application stage. (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(b) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(c) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-416(1) and (2).

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(e) In order to determine if improvements or damage meet the substantial improvement or substantial damage criteria, the applicant shall provide to the floodplain administrator a detailed cost to repair all damages and/or cost of improvements which includes the complete costs associated with all types of work necessary to completely repair or improve a building. These include the costs of all materials, labor, and other items necessary to perform the proposed work. These must be in the form of:

(i) An itemized costs of materials, and labor, or estimates of materials and labor that are prepared by licensed contractors or professional construction cost estimators.

(ii) Building valuation tables published by building code organizations and cost-estimating manuals and tools available from professional building cost-estimating services.

(iii) A qualified estimate of costs that is prepared by the local official using professional judgement and knowledge of local and regional construction costs.

(iv) A detailed cost estimate provided and prepared by the building owner. This must include as much supporting documentation as possible (such as pricing information from lumber companies, plumbing and electrical suppliers, etc). In addition, the estimate must include the value of labor, including the value of the owner's labor.

(2) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or

under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Finished construction stage. A final finished construction elevation certificate is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The administrator will keep the certificate on file in perpetuity. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1414. Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(3) Notify adjacent communities and the Tennessee Emergency Management Agency, state NFIP office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(4) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(5) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(6) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-413(2).

(7) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-413(2).

(8) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-413(2).

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(10) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Elizabethton, Tennessee FIRM meet the requirements of this ordinance.

(11) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

(12) A final finished construction elevation certificate (the latest edition of FEMA elevation certificate form) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. The finished construction elevation certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The

photographs must be taken with views confirming the building description and diagram number provided in § 14-1413(1). To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three inches by three inches (3"x3"). Digital photographs are acceptable. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1415. General standards. In all areas of special flood hazard, the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(2) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(5) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said nonconformity is not further extended or replaced;

(11) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(12) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1416(2);

(13) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(14) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1416. Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1415(1), are required:

(1) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1403). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(2) Non-residential structures. ln AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as

defined in § 14-1403). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-1413(2).

(3) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(i) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1416(2).

(4) Standards for manufactured homes and recreational vehicles.

(a) All manufactured homes placed, or substantially improved, on:

(i) Individual lots or parcels;

(ii) In expansions to existing manufactured home parks or subdivisions; or

(iii) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(i) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(ii) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1403).

(c) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1415 and 14-1416.

(d) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(e) All recreational vehicles placed in an identified special flood hazard area must either:

(i) Be on the site for fewer than one hundred eighty (180) consecutive days;

(ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(iii) The recreational vehicle must meet all the requirements for new construction.

(5) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(a) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(c) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for

manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-1419). (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1417. <u>Standards for special flood hazard areas with established base flood elevations and with floodways designated</u>. Located within the special flood hazard areas established in § 14-1405, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

No new structures shall be constructed within the floodway, except for the following:

(a) Grade level surface parking areas, paths, and hiking trails;

(b) Temporary structures not used for human dwellings;

(c) Water-related features such as bridges, wharfs, docks, and boat ramps;

(d) Public infrastructure installed by or for the benefit of the City of Elizabethton, or county, state, or federal government;

(e) Athletic fields used for recreational purposes, including associated facilities.

All development (including the exceptions noted above) in the floodway must require hydraulic analysis to satisfy the "no-rise" criteria. All listed exceptions would require a no-rise certification. Any type of structure/development would also need to meet the requirements of this ordinance.

(2) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, floodway width or base flood discharge provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR) from FEMA prior to the start of construction. Upon completion of the project, the applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Submittal requirements and fees shall be the responsibility of the applicant as established under the provisions of § 65.12.

The types of development that could occur are:

(a) Rebuilding of existing residential structures that are less than fifty percent (50%) substantially damaged of the assessed value (within the same building footprint and elevated in accordance with any/all requirements of stormwater management, other floodplain ordinance requirements, and any other state or federal requirements). Please note the most restrictive regulations will be enforced.

(b) Modifications or enlargements to commercial or industrial use buildings, elevated in accordance with any/all requirements of stormwater management, other floodplain ordinance requirements, and any other state or federal requirements. Please note the most restrictive regulations will be enforced.

All development in the floodway must require hydraulic analysis to satisfy the "no-rise" criteria. Any type of structure/development would also need to meet the requirements of this ordinance.

(3) Only if subsections (1) and (2) of this section are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of § 14-1413. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1418. Standards for areas of special flood hazard zones ae with established base flood elevations but without floodways designated.

Located within the special flood hazard areas established in § 14-405, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(1) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development, including fill shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated through hydrologic and hydraulic analyses performed that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community.

(2) A community may permit encroachments within Zones AE on the community's FIRM, that would result in an increase in the water surface elevation of the base flood, provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR) from FEMA prior to the start of construction. Upon completion of the project, the applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Submittal requirements and fees shall be the responsibility of the applicant as established under the provisions of § 65.12.

(3) Only if subsections (1) and (2) of this section are satisfied, then any new construction or substantial improvement shall comply with all

other applicable flood hazard reduction provisions of §§ 14-1415 and 14-416. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1419. <u>Standards for streams without established base flood elevations and floodways (A Zones)</u>. Located within the special flood hazard areas established in § 14-1313(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(1) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (2) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of §§ 14-1415 and 14-1416.

(2) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(3) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1403). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1413(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1416.

(4) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Elizabethton, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(5) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-1415 and 14-1416. Within approximate A Zones, require that those subsections of § 14-1416 dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1420. Standards for areas of shallow flooding (Zone AO). Located within the special flood hazard areas established in § 14-1405, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to §§ 14-1415 and 14-1416, all new construction and substantial improvements shall meet the following requirements:

(1) The lowest floor (including basement) shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one foot (1') above the highest adjacent grade; or at least three feet (3') above the highest adjacent grade, if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in § 14-1416(2) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with § 14-1413.

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1421. Standards for areas of shallow flooding (Zone AH). Located within the special flood hazard areas established in § 14-1405, are areas designated as shallow flooding areas. These areas are subject to inundation by one percent (1%) annual chance shallow flooding (usually areas of ponding) where average depths are one to three feet (1'-3'). Base flood elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to meeting the requirements of §§ 14-1415 and 14-1416, all new construction and substantial improvements shall meet the following requirements: Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures. (as added by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1422. Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-1405, are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-1412--14-1423 shall apply. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1423. Standards for unmapped streams. Located within the City of Elizabethton, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(1) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(2) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-1412--14-1423.

(3) Only if §§ 14-1413(1)(a) and (1)(b) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of § 14-1415(1) and (2). (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1424. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Elizabethton, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. all meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the city council.

(c) Appeals: How taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars ($50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time

for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than seven (7) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Elizabethton, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-1416(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #47-2, Jan. 2011, as amended by Ord. #49-6, March 2013, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

14-1425. Legal status provisions. Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Elizabethton, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (Ord. #47-2, Jan. 2011, as replaced by Ord. #61-3, Jan. 2025 ***Ch4_12-11-25***)

CHAPTER 15

MOBILE HOME PARK REGULATIONS[1]

SECTION

14-1501. General plan.
14-1502. Minimum standards.
14-1503. Operating procedures.
14-1504. Dimensional requirements for parks.
14-1505. Dimensional requirements for mobile home spaces.

14-1501. General plan. In any district in which mobile home parks are permitted, the following regulations shall apply:

The owner or lessee of the land parcel proposed for a mobile home park shall submit a plan for development to the Elizabethton Planning Commission for approval. The plan shall show:

(1) The park plan drawn to scale.

(2) The area and dimensions of the proposed park.

(3) The location and width of all roadways and walkways.

(4) The location and dimensions of any proposed service buildings and structures.

(5) The location of all water and sewer lines. If public sewer is not available a certificate signed by the health officer shall be affixed to the plans.

(6) The location of all equipment and facilities for refuse disposal and other park improvements.

(7) A plan for drainage of the park.

(8) A certificate of accuracy signed by the surveyor or engineer that the engineering work is correct.

(9) Certificates and signatures of the building and codes official.

(10) A certificate of planning commission approval.

(11) Any other information deemed pertinent by the planning commission. (2000 Code, § 14-1501)

14-1502. Minimum standards. (1) The site shall be located on a well drained and flood free site with proper drainage.

(2) The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage or other adverse influences.

(3) The site shall be located with direct access to an open public street.

(4) The planning commission may require buffer strips along the side, rear and front lot lines of the park.

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[1]Municipal code reference

Trailers and trailer courts: title 14, chapter 13.

(5) The mobile home park shall contain not more than six (6) individual mobile homes spaces per gross acre.

(6) Service buildings shall be of permanent construction, adequately ventilated and lighted and built in conformity to all city codes and ordinances.

(7) Municipal water supply and sanitary sewer shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector. If public sewer is not available the property must be approved for subsurface sewage disposal by the health department.

(8) A separate water meter shall be required for each mobile home space.

(9) Each mobile home park shall provide a common area for playgrounds. The area shall contain a minimum of five hundred (500) square feet for each mobile home space exclusive of roadways, mobile home spaces and parking spaces.

(10) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in clean and sanitary conditions.

(11) The drives, walks, and parking areas shall be paved with hard surface material which shall be not less than two inches (2") of hot asphalt.

(12) Roadways shall be minimum of twenty feet (20') in width.

(13) Entrances and exits to the mobile home park shall be designed for safe and convenient movement of traffic into and out of the park, and shall be located and designed as prescribed by the City Engineer of the City of Elizabethton.

(14) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks.

(15) The park shall be adequately lighted.

(16) Each mobile home shall be set back a minimum of thirty feet (30') from any public street and a minimum of fifteen feet (15') from all property lines.

(17) Each mobile home park shall provide at least two (2) off-street parking spaces for each mobile home unit. The parking spaces shall be located for convenient access to mobile home units. (2000 Code, § 14-1502)

14-1503. <u>Operating procedures</u>. (1) No space shall be rented for residential use of a mobile home in any such park except for periods of thirty (30) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the Building and Codes Department of Elizabethton, Tennessee.

(2) All roads within the mobile home park shall be private roads and shall not be accepted as public roads.

(3) All mobile homes shall be neatly underpinned with attractive and suitable materials.

(4) Mobile homes shall not be used for commercial, industrial, or other non-residential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a rental office. (2000 Code, § 14-1503)

14-1504. Dimensional requirements for parks. (1) Each mobile home park shall have a front yard setback of thirty feet (30') extending for the full width of the parcel devoted to said use.

(2) Each mobile home park shall provide rear and side yard setbacks of not less than twenty-five feet (25'), from the parcel boundary.

(3) In instances where a side or rear yard abuts a public street, said yard shall not be less than thirty feet (30'). (2000 Code, § 14-1504)

14-1505. Dimensional requirements for mobile home spaces. Each mobile home space shall be of sufficient size that, in addition to the mobile home, the following space shall be provided:

(1) Each mobile home space shall be at least fifty feet (50') wide and such space shall be clearly defined by permanent markers.

(2) There shall be a front yard setback of twenty feet (20') from all access roads within the mobile home park.

(3) Each mobile home shall have a minimum side yard setback of not less than fifteen feet (15') and a rear yard setback of not less than fifteen feet (15').

(4) There shall be at least two (2) paved off-street parking spaces for each mobile home space, which shall be on the same site as the mobile homes served, and may be located in the rear or side yard of said mobile home space. (2000 Code, § 14-1505)

CHAPTER 16

LANDSCAPE REGULATIONS[1]

SECTION

14-1601. Definitions and interpretations.
14-1602. The landscape plan.
14-1603. Protection of existing plantings.
14-1604. Standards for accepting existing plantings.
14-1605. Incentives for preserving specimen trees and existing plantings.
14-1606. General landscape design standards.
14-1607. Prohibited plantings.
14-1608. Buffering.
14-1609. Classification of buffer areas.
14-1610. Protective screening.
14-1611. Parking lot landscaping.
14-1612. Landscape areas.
14-1613. Completion bond.
14-1614. Maintenance/replacement bond.
14-1615. Continued maintenance requirements.
14-1616. Application procedures--new developments.
14-1617. Application procedures--expansions of and/or alterations to existing developments.
14-1618. Minor changes to approved or conditionally approved plans.
14-1619. Expiration of approved landscape plans.
14-1620. Alternative methods of compliance.
14-1621. Conflict.
14-1622. Severability.

14-1601. Definitions and interpretations. (1) "Berm." A mound of soil or man-made raised area used to obstruct views, decrease noise, and/or otherwise act as a buffer between incompatible land uses.

(2) "Buffer." An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, walls, and/or berms, designed to limit continuously the view of and sound from the site to adjacent sites of properties.

(3) "Caliper." The diameter of a tree trunk measured in inches, six inches (6") above ground level for trees up to four inches (4") in diameter and

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[1]Municipal code reference
Tree regulations: title 14, chapter 17.

twelve inches (12") above ground level for trees over four inches (4") in diameter. Caliper is a common means of measuring trunk diameter on young trees.

(4) "Certificate of occupancy." A document issued by the building inspector which permits the occupancy or use of a building and which certifies that the structure for use has been constructed, arranged, and will be used in compliance with all applicable codes.

(5) "Curb." A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved area.

(6) "DBH (Diameter Breast Height)." The diameter of a tree measured four feet (4') above ground level. DBH is a common means of measuring the diameter of large trees.

(7) "Deciduous." Plants that drop their foliage annually before becoming dormant.

(8) "Developer." The legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option, or contract to purchase, or any other person having enforceable proprietary interest in such land.

(9) "Development." Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, dredging, drilling operation, excavation, filling, grading, paving, or the removal of healthy trees over six inches (6") DBH.

(10) "Drip line." A vertical line extending from the outer edge of the canopy of a tree to the ground.

(11) "Frontage landscaped area." A landscaped area located at the perimeter of the lot along all abutting public streets or permanent transportation easements.

(12) "Evergreen." A plant with foliage that remains green year-round.

(13) "Hedge." A landscape barrier consisting of a continuous, dense planting of shrubs.

(14) "Impervious surface." A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

(15) "Incompatibility of land uses." An issue arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(16) "Interior planting island." An island located within the interior of a parking lot.

(17) "Island." A raised area, usually curbed, placed to protect landscaping and separate traffic flow.

(18) "Landscape specialist." For purposes of these regulations, a landscape specialist shall include anyone with professional training and experience in the principles of landscaping.

(19) "Lot." A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

(20) "Maintenance guarantee." Any security which may be required and accepted by the Elizabethton Regional Planning Commission to ensure that necessary improvements will function as required for a specific period of time.

(21) "Mulch." A layer of wood chips, dry leaves, straw hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

(22) "Nursery." Land or green houses to raise flowers, shrubs, and plants for sale.

(23) "Off-street parking." A parking space provided in a parking lot, parking structure, or private driveway.

(24) "Ornamental tree." A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

(25) "Overhang." The portion of a vehicle extending beyond the wheel stops or curb.

(26) "Performance guarantee." Any security that may be accepted by the Elizabethton Regional Planning Commission as guarantee that the improvements required as part of an application for development are satisfactorily completed.

(27) "Protective screening." A structure of plantings, consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

(28) "Setback." The distance between the building and any lot line.

(29) "Shade tree." A tree, usually deciduous, planted primarily for overhead canopy.

(30) "Shrub." A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet (10') in height at its maturity.

(31) "Sight distance triangle." A portion of land formed by the intersection of two (2) street right-of-way lines and points along each right-of-way thirty-five feet (35') from the intersection. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In general, this would mean that a clear view shall be provided between the heights of three feet (3') and fifteen feet (15') within the sight distance triangle.

(32) "Specimen tree." A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

(33) "Street, public." A public right-of-way set aside for public travel which:

(a) Has been accepted for maintenance by the City of Elizabethton;

(b) Has been dedicated to and accepted by the City of Elizabethton for public travel by the recording or a street plat or a plat of subdivision which has been approved by the Elizabethton Regional Planning Commission.

(34) "Topsoil." The original layer of soil material to a depth of six inches (6") which is usually darker and richer than the subsoil.

(35) "Vision clearance." A condition which is achieved when nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. (2000 Code, § 14-1601, as amended by Ord. #48-16, Sept. 2012)

14-1602. <u>The landscape plan</u>. A generalized landscape plan shall be submitted as part of the site plan review process. At minimum, the landscape plan shall indicate:

(1) The size, location, number, and type of species involved in proposed frontage landscaped areas, landscape islands within parking lots, and screening, and buffers.

(2) The distance of plantings to be used for landscaping from intersections (include and highlight the location of all sight distance triangles), utility lines and other potential points of conflict. Each developer shall be responsible for coordinating the location of plantings with the existing and/or proposed location of above and below ground utilities, including street lights.

(3) The number of parking spaces and/or the square footage of area designated for parking.

(4) The distance of the farthest individual parking space from a required parking lot tree.

(5) The zoning associated with both the proposed development and surrounding properties.

(6) The types of activities conducted on adjacent properties.

(7) The general location of existing specimen trees, if any.

(8) Where existing plantings are to be retained and how these plantings will be protected during the construction process. Drawings shall delineate the drip line of trees desired for preservation.

(9) Location and description of other landscape improvements, such as earth berms, walls, fences, and screens.

(10) Planting and installation details as necessary to ensure conformance with all required standards.

(11) Any other information as may be required to assess compliance with this chapter. (2000 Code, § 14-1602)

14-1603. Protection of existing plantings. (1) Where existing plantings are to be preserved, as noted in the landscape plan, the following protection measures or the performance base equivalents shall apply:

(a) Species intended for preservation shall be clearly delineated in the field. These species should be selected prior to setting buildings and paving.

(b) No soil should be placed around trees that are intolerant of fill and are to be saved. Dogwoods, birches, oaks, and sugar maples and most conifers are, for example, intolerant to fill because their roots are often near the surface.

(c) Stockpiling of soil resulting from grading shall be located only in open areas. No material or temporary soil deposits shall be placed within four feet (4') of shrubs or ten feet (10') of trees designated for preservation.

(d) No soil shall be disturbed in a ten foot (10') radius or, if greater, with the drip line of the tree(s) to be preserved.

(2) Barriers used to protect existing plantings shall be self-supporting (i.e., not supported by the plants they are protecting), a minimum of three feet (3') high, and constructed of durable material that will last until construction is completed.

(3) Should machinery, during the construction process, be required to cross through a protected zone, at least four inches (4") of chip mulch shall be placed on the ground to displace the weight of machines and prevent loss of pores in the soil that allow passage of air and water to roots.

After construction, curbing placed around existing trees shall be at least three and one-half feet (3 1/2') from the base of the tree, as measured six inches (6") above the ground, or no closer than the halfway point between the drip line and the trunk of the tree, whichever distance is greater. (2000 Code, § 14-1603)

14-1604. Standards for accepting existing plantings. Existing plantings will only be accepted as fulfilling the landscaping requirements of this chapter where they meet the following requirements:

(1) They are healthy and listed as an acceptable species in the "list of acceptable species" maintained by the City of Elizabethton.

(2) They do not and are not likely to interfere with utilities, vision clearance standards, or obscure street lights.

(3) They meet the size, location, and other applicable requirements of this chapter. (2000 Code, § 14-1604)

14-1605. Incentives for preserving specimen trees and existing plantings. To encourage the preservation of a specimen tree or significant wooded area, setback requirements along side and rear property lines may, upon review and approval by the board of zoning appeals, be reduced by as much as twenty-five percent (25%). Also, the number of required parking spaces may,

if approved by the planning commission, be modified to encourage the preservation of existing plantings. (2000 Code, § 14-1605)

14-1606. General landscape design standards. (1) General size specifications. At the time of planting, all required trees shall have a minimum trunk diameter of at least two inches (2"), as measured at six inches (6") above the ground, and shall be nursery grown. All required trees shall have a minimum height of six feet (6') when planted. All required shrubs used for buffering shall have a minimum height of two feet (2') when planted and shall be capable of reaching a minimum height of three feet (3') within three (3) years of planting. All shrubbery shall be nursery grown.

(2) Tree types. Tree type may vary depending on overall effect desired. However, where ten (10) or more new trees are required, a mixture of more than one (1) species shall be provided to create a natural look and guard against the possibility of disease obliterating all required trees. As a rule, trees should be indigenous, relatively fast-growing, not particularly susceptible to insects and disease, long-living, and require little care. A list of acceptable species is maintained by the City of Elizabethton.[1] Any tree not found on the list shall not be counted toward the required plantings. This provision, however, may be waived if the petitioner provides the planning commission with a letter from a landscape specialist that justifies the alternate species proposed.

(3) General spacing standards. Proper spacing distances depend on the tree type, its growing habits, and whether freestanding specimens or an interlaced canopy is desired. As a general rule, unless a canopied effect is desired (e.g. for buffering), a good guide is to space trees so as to exceed the farthest extent of branch development at maturity. Required shade trees shall generally have a minimum horizontal separation from other required trees of eight feet (8'). In all cases, required trees, whether new or existing, shall be spaced so that they will not interfere with utilities, obstruct vision clearance, or obscure street lights. (2000 Code, § 14-1606)

14-1607. Prohibited plantings. (1) Utility considerations. As noted in other sections of this chapter, consideration shall always be given to the placement and type of plantings, particularly trees, involved in a landscape design so that such plantings will not interfere with utilities. Specifically, it shall be unlawful for any person to plant the following:

(a) Within any recorded sewer or water easement: any species prone to clogging water or sewer lines with roots, including, but not limited to: Poplar, Boxelder, Silver Maple, American Elm, Catalpa, Siberian Elm, Cotton Wood, Black Walnut, and Weeping Willow.

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[1]A list of acceptable species is of record in the city clerk's office.

(b) Within any recorded easement for overhead electric or telephone lines: any species known to reach a mature height greater than twenty feet (20').

(2) Vision clearance considerations. All species shall be located so that they provide for vision clearance, as required by this chapter. Vision clearance shall be evaluated on both the existing physical characteristics of a species and its anticipated physical dimensions at maturity. (2000 Code, § 14-1607)

14-1608. Buffering. (1) Intent. Buffer yard requirements are designed to provide physical separation and visual screening between adjacent land uses that are not fully compatible, such as duplexes and service stations. Buffering is also necessary to create privacy, soften glare, filter noise, and modify climatic conditions.

(2) Applicability. Buffer yards are required where development of a new higher impact use, resulting from either a new use of a vacant lot or through a change in ownership or tenancy, abuts an existing lower impact use. Impact use classifications are discussed below. In cases where the use classification is uncertain, the planning commission shall make a decision based on the specific situation, character of the use, and the surrounding and/or proposed plan of development. For example, the use of public-owned buildings, which is permitted in all zoning districts, will have very different impacts on abutting properties, depending on the nature of the use. As a result, buffering for these kinds of uses shall be evaluated on the basis of the most similar private sector use and the uses prevalent in the surrounding neighborhood. The Elizabethton Regional Planning Commission may increase buffer yard requirements.

(3) Appeals. Whenever type 3 buffers are required, if, at the time of site plan review, it is determined that the required buffer cannot reasonably be expected to provide visual screening within five (5) years of installations, the Elizabethton Regional Planning Commission in conjunction with the director planning and development may require a different type of buffer than those specified below.

(4) Impact classification. (a) (N) No Impact:

(i) Any use, unless otherwise listed below, which is permitted in a R-1 or R-1A zoning district;

(ii) Cemeteries;

(iii) Golf course;

(iv) Parks and similar uses.

(b) (L) Low Impact:

(i) Any use, unless otherwise listed as a no impact use, which is permitted in the R-2, R-3 or B-1 zoning districts;

(ii) Community and neighborhood recreational facilities and similar uses.

(c) (M) Medium Impact:

(i) Any use, unless otherwise considered as a no impact or low impact use, which is permitted in the B-3 and B-4 zoning districts;

(ii) Gasoline service stations;

(iii) Convenience stores;

(iv) Parking garages;

(v) Auto repair garages and similar uses; and

(vi) Mini-warehouses.

(d) (H) High Impact:

(i) Any use only permitted in the M-1 or M-2 zoning districts; and

(ii) Any proposed development which would create more than five hundred (500) parking spaces.

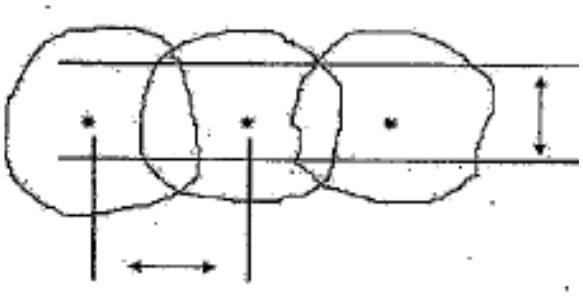
(5) Proposed use classification.

Adjoining Use Classification	No Impact (N)	Low Impact (L)	Medium Impact (M)	High Impact (H)
No impact	None	1	2	3
Low impact	None	None	1	3
Medium impact	None	None	None	1
High impact	None	None	None	None

Example: A new apartment complex (a low impact use) located in R-3 zoning district will abut an existing single-family residential (a no impact use) area. The developers of the apartment complex (the higher impact use) will be responsible for creating and arranging for the maintenance of a Class 1 buffer. However, if this apartment complex were to abut any equal or lower impact use, the developers of the complex would not be responsible for creating any new buffer area. (2000 Code, § 14-1608)

14-1609. Classification of buffer areas. (1) Class 1. A Class 1 buffer area is designed for those abutting uses which are only mildly incompatible. For example, an apartment complex abutting a duplex. As a result, the buffer requirements associated with the Class 1 buffer are minimal. One of the following three (3) options would be credited as an acceptable minimum buffer.

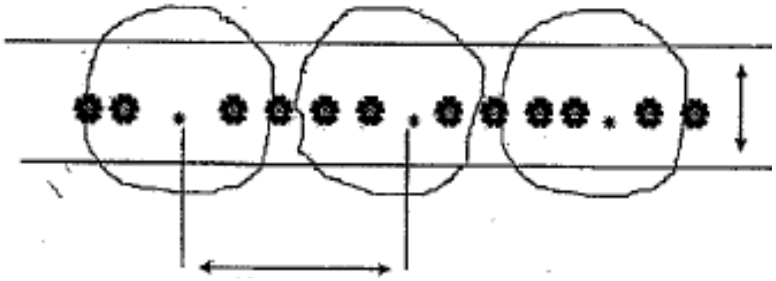
(a) Option A1. One (1) row of evergreen trees spaced no greater than eight feet (8') on center. Species which may require different spacing standards may be approved, provided adequate documentation is submitted to justify a variation.



Tree 8Ft Canopy

8 Ft. Max between center of trees

(b) Option B1. One (1) row of evergreen trees with a minimum width spaced no greater than twelve feet (12') on center and a minimum of four (4) shrubs provided per tree.



8 Ft Minimum

12 Ft Max

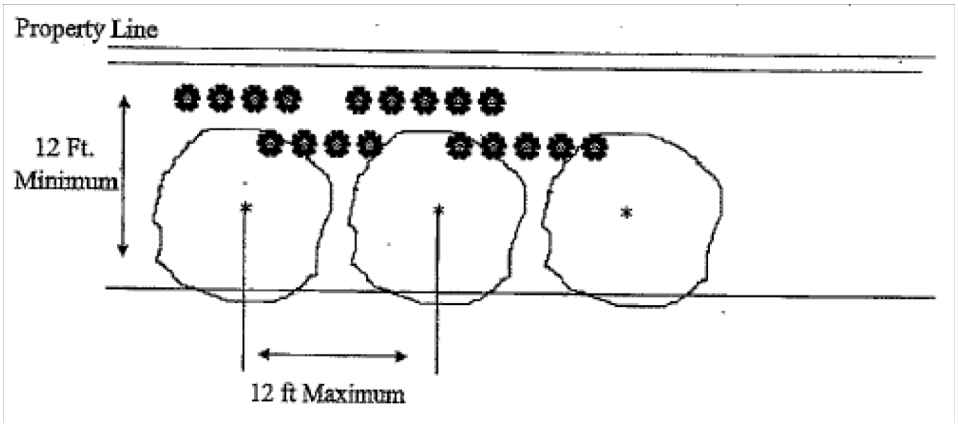
(c) Option C1. A solid barrier brick or masonry wall or wooden fence or equivalent at least six feet (6') in height. Where a landscaped berm is used and would be periodically mowed, for maintenance purposes, no slope shall exceed twenty-five percent (25%). Berms planted with ground cover and shrubs may be steeper; however, no slope shall exceed fifty percent (50%).

(2) Class 2. Class 2 buffer areas are designed to provide greater shielding than is provided in the Class 1. Class 2 buffers are for incompatible

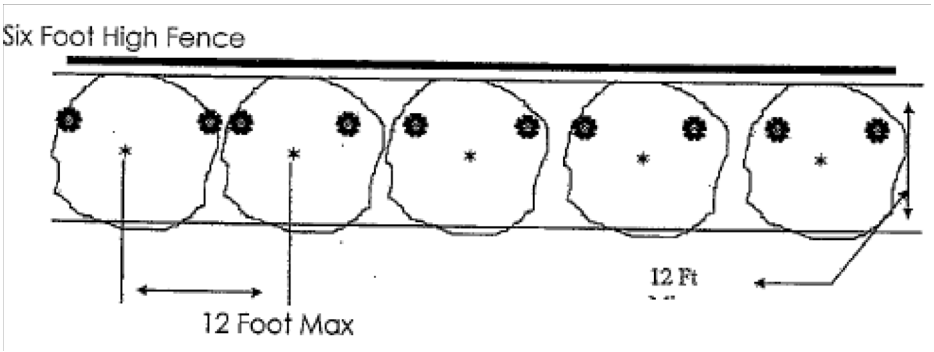
uses, which, because of noise, lighting, smell, etc. require larger buffers. For example, a proposed commercial use abutting an existing single-family neighborhood would require a Class 2 buffer. The Class 2 buffering requirements could be met by completing, at a minimum, one of the following options:

(a) Option A2. A minimum buffer strip width of twelve feet (12') with a row of trees no greater than twelve feet (12') on center and with no less than six (6) shrubs per tree.

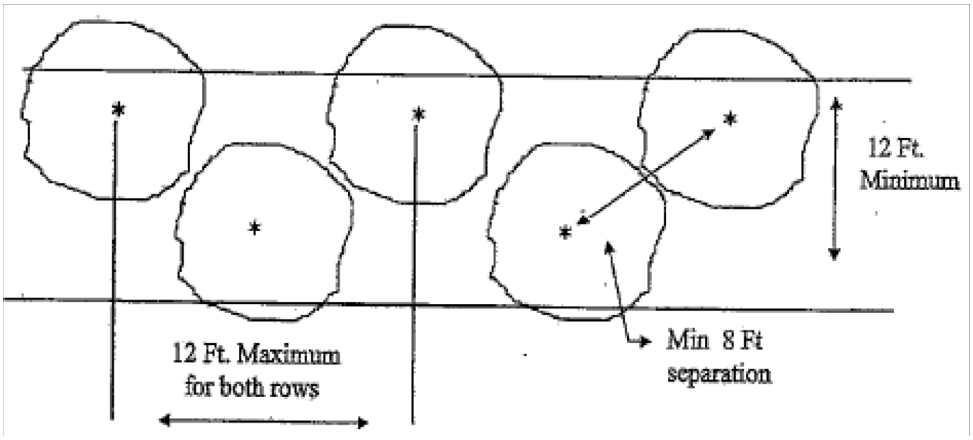
(b) Option B2. A minimum buffer strip width of twelve feet (12') and a minimum six foot (6') high fence, specifically approved by the planning commission, with a row of trees no greater than twelve feet (12') on center and with no less than two (2) shrubs per tree.



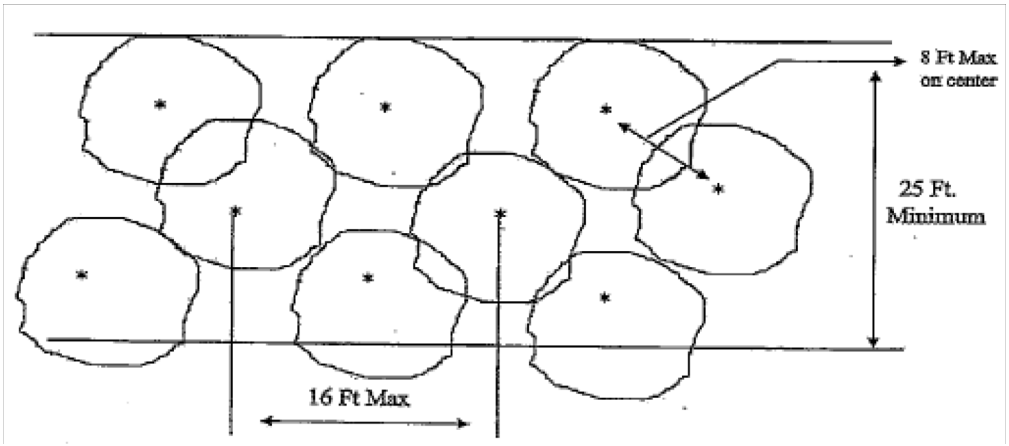
(c) Option C2. A minimum buffer strip width of twelve feet (12') with a double row of buffer trees, with a minimum row separation of eight feet (8') planted a maximum of twelve feet (12') on center.



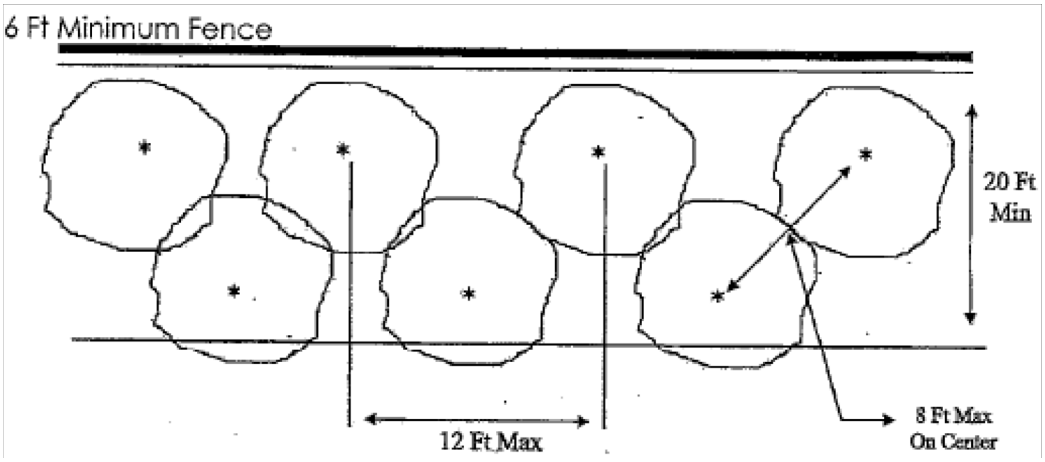
(3) Class 3. The Class 3 buffer is designed for abutting uses which are completely incompatible. For example, a development which will have a high level of noise, light, traffic (industry, large development) abutting a low density residential neighborhood would be required to construct a Class 3 buffer along the abutting property lines. At minimum, Class 3 buffer requirements could be met by adhering to one (1) of the following options:



(a) Option A3. A buffer strip with a minimum width of twenty-five feet (25') and with no less than three (3) rows of buffer trees with a minimum row separation of eight feet (8') and spaced no more than sixteen feet (16') on center.



(b) Option B3. A minimum six foot (6') high fence, specifically approved by the planning commission, with two (2) rows of trees with row separation of no more than eight feet (8') and space no less than twelve feet (12') on center. The buffer strip shall be a minimum of twenty feet (20').



(2000 Code, § 14-1609)

14-1610. Protective screening. (1) Applicability. Excluding the development of individual single-family or two-family detached dwelling units, protective screening shall be provided in all zones.

(2) Screening requirements. A protective screen in the form of a masonry wall, wood fence, or opaque landscaping to prevent public view from any street right-of-way (excluding alleys) or adjoining property shall be provided for the following:

(a) Dumpsters; and

(b) All mechanical equipment which is larger than five feet by five feet by four feet (5'x5'x4') high shall be screened. Mechanical units smaller than this shall not require screening if they are located to the side or rear of the building and are not visible from a collector, arterial. or freeway. (2000 Code, § 14-1610)

14-1611. Parking lot landscaping. (1) Intent. The purpose of landscaping within and around parking areas is to:

(a) Enhance a development's property value and business opportunities by making it more inviting to customers or visitors.

(b) Provide shade for comfort when walking and after returning to the parked vehicle, as well as to reduce heat build up produced by asphalt surfaces on hot days and to buffer winter winds.

(c) Muffle noise in and around the development and the parking area.

(d) Filter the air by absorbing exhaust gases and giving off pure oxygen.

(e) Protect water quality by modifying the rate of erosion, and stormwater runoff into natural and man-made drainage areas.

(f) Break up the mass of pavement associated with parking lots which will provide sense of human scale, slow traffic through the lot, and provide safe pedestrian routes from the building to the automobile.

(g) Minimize the hazard of nighttime headlight glare for drivers and pedestrians.

(2) Applicability. Parking lot landscaping shall be required for all uses which involve the creation of more than twenty (20) off-street parking spaces, either as a new use or by expansion. Where parking spaces are not paved and striped, parking lot landscaping shall be provided, as required by this section, for uses which designate more than four thousand (4,000) square feet of the site for parking purposes. "Interior" landscaping shall not be required for parking garages or other enclosed parking structures. Such use, however, shall be buffered, as required.

(3) Planting requirements. Where parking lot landscaping is required, one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree shall be planted for every ten (10) parking spaces or, in the case of existing parking lots which are enlarged, every additional ten (10) spaces. Unmarked lots shall have one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree for every two thousand (2,000) square feet of area designed or used on a daily basis for parking.

(4) Standards for trees used specifically in parking lot landscaping.

(a) Shall have a clear trunk of a least six foot (6') above finished grade to provide for maximum vision clearance;

(b) Shall be able to thrive in existing soil and should be tolerant of excessive heat, de-icing, salt, and the oils and other chemicals often found in additional volume in parking lot environments;

(c) Shall be species with strong wood which is not prone to breakage in wind or ice storms;

(d) Shall be fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery;

(e) Shall not interfere with either above or below ground utilities;

(f) Shall have pavement cut outs of sufficient size for tree survival and growth (approved by a professional landscaper) when landscaping is placed in a previously developed and paved portion of a site.

(5) Spacing requirements. Trees required for parking lot landscaping may be clustered. However, in no case shall any individual parking space be greater than seventy-five feet (75') from the trunk of a required parking lot tree and no more than one hundred twenty-five feet (125') from two (2) or more

required parking lot trees. Distances shall be measured in a straight line from the DBH to the nearest portion of the individual parking space. Parking lot landscaping shall not extend more than fifteen feet (15') beyond any area designated or commonly used for parking. Furthermore, in no case, shall parking lot landscaping be counted toward fulfilling any other landscaping (e.g. buffering) requirements of this chapter.

(6) Interior planting islands--dimensions. Where interior planting islands are used to meet the requirements of this section, each island shall be no less than three feet (3') wide at its greatest point in any dimension. Each planting island shall be bordered by a minimum six inch (6") concrete raised curb or wheel stop to prevent damage to required landscaping. Where a tree is located within a planting island, there shall be provided at least sixty (60) square feet of pervious land area for each tree within the island. Required trees shall be planted so that the base of the tree, as measured six inches (6") above the ground shall be at least three and one-half feet (3 1/2') behind the curb or traffic barrier to prevent damage to the tree by auto bumpers. Where and island is parallel to parking spaces, the island shall be at least nine feet (9') wide to allow ample radius for car doors to swing open.

(7) Interior planting islands and parking requirements. Where parking spaces abut planting islands, the required parking may be reduced in order to free up space needed to meet any of the parking lot landscaping requirements of this chapter. In all cases, any modifications to parking requirements shall be specifically approved by the planning commission. (2000 Code, § 14-1611)

14-1612. Landscape areas. (1) Intent. In addition to parking lot landscaping and buffering requirements, planting shall also be provided along the public road frontage for those applicable situations noted below in order to:

(a) Better define parking spaces;

(b) Shield views of parked cars to passing motorists and pedestrians;

(c) Create a pleasing, harmonious appearance along the roadway; and

(d) Promote individual property values and pleasing community atmosphere.

(2) Applicability. Any new family, multi-family, commercial or industrial development, which will front along the same public street or permanent transportation easement for at least fifty (50) linear feet, shall be required to plant frontage landscaping along that frontage. Frontage landscaping shall also be required where an existing lot of record is used by an existing multi-family, commercial, or industrial entity and is combined with adjacent property to create at least fifty feet (50') of additional public road frontage. In which case, frontage landscaping shall be required along that additional frontage.

(3) Requirements. Landscaping along any public road or permanent transportation easement frontage shall be within a strip which is at least ten feet (10') wide. This strip shall include at least one (1) shade tree or evergreen tree or two (2) ornamental trees for each fifty (50) linear feet of public street or permanent transportation easement frontage. Required trees may be clustered or spaced in any manner desirable to the developer and owner, provided such spacing does not interfere with utility line locations or vision clearance. Between required trees, additional landscaping in the form of shrubs, berms, and masonry walls or other landscaping or combinations of landscaping acceptable to the planning commission shall be provided. This landscaping shall be at least three feet (3') in height or, in the case of plantings, capable of reaching three feet (3') in height within three (3) years and shall be spaced so that no non-landscaped "gaps," excluding driveways and sight line, exist which are greater than six (6) linear feet. Plantings other than trees shall be at least eighteen inches (18") high when planted. A gap greater than six (6) linear feet may be permitted by the planning commission where a clear safety concern is demonstrated or a more natural look would otherwise be conveyed. (2000 Code, § 14-1612, as amended by Ord. #48-16, Sept. 2012)

14-1613. Completion bond. In order to ensure the acceptable completion of required landscaping, the building inspector may withhold a certificate of occupancy until required plantings are installed per the approved landscape plans. If a certificate of occupancy is desired and it is not an appropriate time of year for planting, a completion bond, irrevocable letter of credit, or similar security measure shall be provided by the developer to the Elizabethton Regional Planning Commission. If landscaping is not planted according to the approved landscape plan the City of Elizabethton shall retain the right to cash the bond or security measure, after providing written notification to the developer, in order to complete the landscaping. (2000 Code, § 14-1613)

14-1614. Maintenance/replacement bond. An amount equal to at least one hundred ten percent (110%) of the projected cost of the landscaping of the approved landscape plan shall be placed by the developer with the City of Elizabethton for a period of not less than two (2) years. This bond shall be placed with the City of Elizabethton after all landscaping has been satisfactorily completed. If landscaping has died and not been removed and replaced, the City of Elizabethton shall retain the right to cash the bond, after providing written notification to the developer, in order to complete the maintenance, removal and/or replacement of the affected landscaping. As a rule, plantings that are required to be planted or those that are preserved shall be removed and replaced with equivalent plantings if such plantings are not living within one (1) year after the issuance of a certificate of occupancy or the release of a completion bond. (2000 Code, § 14-1614)

14-1615. Continued maintenance requirements. (1) Upon expiration or release of any applicable maintenance and replacement bond, property owners shall remain responsible for maintaining plantings in a healthy and orderly manner. Specifically, this shall mean that:

(a) All plant growth in landscaped areas shall be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic or pedestrian hazard;

(b) All planted areas shall be maintained in a relatively weed-free condition and clear of undergrowth;

(c) All planting shall be fertilized and irrigated at intervals necessary to promote optimum growth;

(d) All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease, or other causes.

(2) Also, where man-made materials are used alongside landscaping, such materials shall be maintained in good repair, including, where applicable, periodic painting or finishing. Subsequent building permits may be withheld if, after written notification, landscaping, either required or preserved, is not properly maintained. (2000 Code, § 14-1615)

14-1616. Application procedures--new developments. Where landscaping plans are required, such plans shall be submitted as part of the site plan review process. These plans, shall be reviewed by the Elizabethton Regional Planning Commission, and shall be submitted no later than twenty-one (21) days before the regular meeting date in order to be on the commission's agenda. The planning commission will render an acceptance, denial, or conditional acceptance. Where plans are approved subject to certain conditions, such conditions may be satisfied by working with the planning and development director, provided such conditions are classified as "minor." (2000 Code, § 14-1616)

14-1617. Application procedures--expansions of and/or alterations to existing developments. When a use of a property is expanded or changed so as to require landscaping, provisions of this chapter shall apply so the City of Elizabethton is provided with a "security" that the landscaping will be installed and maintained as required in this chapter. Where required landscaping can only be provided in existing paved areas, pavement cut-out shall be of sufficient size to ensure the survival of the species. Adequate space shall be provided to permit air and water to the root system. In general, the site should be prepared by digging or rototilling an area twelve inches (12") deep and typically five (5) times the diameter of the planting ball. This area should be backfilled with native soil. (2000 Code, § 14-1617)

14-1618. Minor changes to approved or conditionally approved plans. Minor changes made to approved landscape plans shall be first approved by the planning staff before any such changes may be made to these original plans. Where such proposed changes would clearly compromise the intent and purpose of this chapter, such changes shall be deemed as "major" and shall be presented to the Elizabethton Regional Planning Commission for a decision. (2000 Code, § 14-1618)

14-1619. Expiration of approved landscape plans. In conjunction with site development requirements, work related to an approved landscape plan shall be initiated within twenty-four (24) months after formal approval by the planning commission. Where such work is not initiated, the plans shall be resubmitted to the planning commission for approval of the proposed landscaping. (2000 Code, § 14-1619)

14-1620. Alternative methods of compliance. In cases where a strict interpretation of the requirements of these regulations may by reason of topographical conditions, practical difficulties, or undue hardship, the developer may present an alternative method of compliance. In all cases, such alternative means of complying with the provisions of this chapter shall only be permitted by the planning commission if they remain true to the intent of the landscape ordinance. The Elizabethton Regional Planning Commission will evaluate the petitioner's request for alternative compliance based upon whether one (1) or more of the following conditions clearly would apply:

(1) The development has obvious space limitations or is on an unusually shaped parcel;

(2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible, impractical, or unnecessary;

(3) Due to a change of use of an existing site, the required buffer yard is larger than can be provided;

(4) Obvious safety considerations are involved;

(5) An alternative plan, as demonstrated by a landscape specialist, would clearly improve the environmental quality, traffic safety, and the overall aesthetics of the city to an extent much greater than would be possible by adhering to the provisions of this chapter.

(6) In all cases, if an alternate means of compliance is permitted, such compliance shall approximate the requirements of this chapter to the greatest extent possible. (2000 Code, § 14-1620)

14-1621. Conflict. If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation of requirement shall govern or prevail to the extent of the conflict. (2000 Code, § 14-1621)

14-1622. **Severability**. If any section, subsection, clause, or phrase of this chapter or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this chapter, or the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect. (2000 Code, § 14-1622)

CHAPTER 17

ELIZABETHTON TREE REGULATIONS[1]

SECTION

14-1701. Definitions.
14-1702. Tree board.
14-1703. Tree maintenance.
14-1704. Tree removal.

14-1701. Definitions. (1) "Brush." Small, stunted vegetation similar to undergrowth, small trees, and shrubs.

(2) "City manager." The City Manager of the City of Elizabethton, Tennessee, or his/her designee. (Ord. #48-26, Dec. 2012)

14-1702. Tree board. (1) Creation of a tree board. The Elizabethton Tree Board may be formed and organized at the mayor's discretion and shall consist of five (5) members. The board shall be charged with working with the city manager to enforce and ament this chapter and develop policies to regulate weeds, brush, plants, trees, or other vegetation in the public alleys, streets, other rights-of-way, and city owned property, plant trees within the city, and maintain tree coverage within the city.

(2) Appointment. With the confirmation of the city council, the mayor shall appoint members of the Elizabethton Tree Board for three (3) years, staggered terms. At least one (1) member must be a trained arborist, dendrologist, forester, botanist, horticulturist, or, if none of the previous can be found, a representative of a local environmental conservation organization. (Ord. #48-26, Dec. 2012)

14-1703. Tree maintenance. (1) Maintenance of trees and vegetation in public rights-of-way. (a) The city shall not be required to cut, trim or provide standard maintenance to weeds, brush, plants, grass, trees, or other vegetation growing in the developed or undeveloped public alleys, streets, or other rights-of-way. Any adjacent property owner or tenant, at their own expense, may cut, trim or provide standard maintenance of any weeds, brush, plants, grass, trees, or other vegetation growing in the public alleys, streets, or other rights-of-way.

(b) Removal of trunks and limbs generated by cutting, trimming or providing standard maintenance to weeds, brush, plants, grass, trees, or other vegetation performed by adjacent property owners or tenants

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[1]Municipal code reference
Landscape regulations: title 14, chapter 16.

shall conform to the requirements of title 17 of the Elizabethton Municipal Code and specifically, § 17-104 which states "No person shall perform any service of economic gain wherein trees or shrubbery are cut, trimmed, removed or altered, and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping as a result of such work or service without being equipped with a truck or other vehicle capable of removing said brush, wood, vines, debris or other refuse which shall be so removed by the person causing or creating its accumulation."

(c) Exception. City crews may cut back brush, plants, trees or other vegetation which does not provide eight feet (8') of vertical clearance for sidewalks, fourteen feet (14') of vertical clearance for developed streets, alleys or other rights-of-way, or interferes with vehicle or pedestrian traffic upon the discretion of the city manager.

(2) Maintenance of trees and vegetation on city property. No private citizen shall cut, prune, plant, or remove any weeds, brush, plants, trees, or other vegetation on city-owned property without first seeking written permission from the city manager. Similarly, no private citizen shall intentionally damage, cut, carve, transplant or remove any tree on public property, nor attach any rope, wire, nails, advertising posters or other contrivance to any tree on city-owned property, nor allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them, nor set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree on city-owned property without first seeking written permission from the city manager. (Ord. #48-26, Dec. 2012)

14-1704. Tree removal. (1) Tree removal in public rights-of-way.

(a) The city shall not be required to cut and/or remove trees growing in the public alleys, streets, or other rights-of-way, developed or undeveloped. Any adjacent property owner or tenant, at their own expense, may cut and/or remove any trees growing in the developed or undeveloped public alleys, streets, or other rights-of-way.

(b) Exception. Trees that may present interference with vehicle or pedestrian traffic may be cut and/or removed by city crews upon the discretion of the city manager.

(2) Tree removal on city property. No private citizen shall cut and/or remove trees on city owned property without first seeking written permission from the city manager. (Ord. #48-26, Dec. 2012)

CHAPTER 18

HIGHWAY ENTRANCE OVERLAY DISTRICT

SECTION

14-1801. Intent.
14-1802. Applicability.
14-1803. Development standards.

14-1801. Intent. The purpose of this overlay district is to establish higher environmental, aesthetic, and design standards for designated areas of the City of Elizabethon and Carter County, Tennessee, which are visible from specified highways. Because these standards shall apply without regard to the underlying use of the land, they are created in a special overlay district which can be over any zoning district located along a designated highway. (2000 Code, § 14-1801)

14-1802. Applicability. The highway entrance overlay district shall be in effect in all zoning districts along designated highways. Property fronting on highways in the highway entrance overlay district and parcels with more than half of its area within the overlay are subject to these requirements. As an overlay, this district is applied in addition to those standards of the underlying district. Developments within the geographic limits of this district shall conform to the requirements of both districts or the more restrictive of the two. Single-family land uses shall be exempt from the provisions of this overlay. (2000 Code, § 14-1802)

14-1803. Development standards. The following standards and guidelines shall apply to all development, construction, reconstruction, or alteration:

(1) Building facades. Buildings which have their front, back or side facing the designated highway shall be designed and constructed to avoid lengthy, unbroken facades with no scale, detailing, or metal. No building facade (whether front, side or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other facade of the same building.

(2) Mechanical equipment. All ground-mounted mechanical equipment shall be screened from view from the designated highway by the use of walls, fences, or landscaping. All roof-mounted mechanical equipment shall be properly screened to minimize visual impact, where such screening will be effective. Where screening will not be effective, the color of the equipment shall be the same as the building.

(3) Service, loading, and equipment storage areas. Service areas, including storage, special equipment, maintenance, and loading areas shall be screened with landscaping and/or architectural treatment so as not to be visible

from the highway. Refuse collection areas shall be visually screened with a solid perimeter wall consisting of materials and colors compatible with those of the adjacent structure and shall be roofed if the contents are visible from the highway.

(4) Utilities. All new utility lines, including but not limited to, electric, telephone, internet and television cable shall be placed underground.

(5) Fencing. Fencing along the highway right-of-way is discouraged, but if used, such fencing shall be landscaped to minimize visibility from the highway.

(6) Parking lots. Vehicular movement and parking areas shall be paved with concrete, asphalt or other similar material. Vehicular movement and parking areas surfaced with gravel or other similar material shall be prohibited. Concrete curb and gutter or other stormwater management structure as approved by the planning commission shall be installed around the perimeter of all driveways and parking areas. Drainage shall be designed so as not to interfere with pedestrian traffic. Parking lot paving shall not encroach on the highway right-of-way.

(7) Design. The design of structures and their materials and colors including retaining walls, shall be visually harmonious with the overall appearance, history and cultural heritage of Carter County and the City of Elizabethton.

(8) Lighting. Direct light and glare from lights can be both a hazard and a nuisance to drivers and neighboring residential development. Exterior lighting shall not omit any light above horizontal plane. Searchlights, laser source lights, or any similar high intensity light for advertising purposes shall be prohibited. The maximum height of lights not located in the public right-of-way shall be twenty-five feet (25'). Site lighting shall be of low intensity from a concealed source, shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way interfere with the vision of on-coming motorists. Such lighting fixtures or devices shall be of a directional type capable of shielding the light source from direct view. The development plan must show the relationship of fixtures and the light patterns to each other, to the project site, to the unit development, and to the highway corridor.

(9) Signage. All signage located within the overlay shall comply with the requirements of the underlying zoning unless modified below. All freestanding and development identification signs shall be ground mounted signs that do not exceed eight feet (8') in height and two hundred (200) square feet in area.

(10) Prohibited uses. The following uses shall be prohibited in the HEO District:

(a) Tower structures.

(b) Corrugated metal siding. Alternative structures or materials which meet the aesthetic intent of this chapter may be permitted upon review by the Elizabethon Regional Planning Commission.

(2) Uses permitted by approval as special exception. An alternative tower structure is permitted when approved by the board of zoning appeals as a special exception as provided by § 14-205. (2000 Code, § 14-1803, modified)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. NEIGHBORHOOD TRAFFIC MANAGEMENT PROGRAM.

CHAPTER 1

MISCELLANEOUS[2]

SECTION

15-101. Motor vehicle requirements.
15-102. Driving on streets closed for repairs, etc.
15-103. One-way streets.
15-104. Unlaned streets.
15-105. Laned streets.
15-106. Yellow lines.
15-107. Miscellaneous traffic control signs, etc.
15-108. General requirements for traffic control signs, etc.
15-109. Unauthorized traffic control signs, etc.
15-110. Presumption with respect to traffic control signs, etc.
15-111. School safety patrols.
15-112. Driving through funerals or other processions.

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[1]Municipal code reference

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

[2]State law references

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

15-113. Clinging to vehicles in motion.
15-114. Riding on outside of vehicles.
15-115. Backing vehicles.
15-116. Projections from the rear of vehicles.
15-117. Causing unnecessary noise.
15-118. Vehicles and operators to be licensed.
15-119. Passing.
15-120. Damaging pavements.
15-121. Reckless driving.
15-122. Commercial vehicles prohibited on certain residential streets.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (2000 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (2000 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (2000 Code, § 15-103)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (2000 Code, § 15-104)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when

lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (2000 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (2000 Code, § 15-106)

15-107. Miscellaneous traffic control signs, etc.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer. (2000 Code, § 15-107)

15-108. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,[2] published by the U.S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (2000 Code, § 15-108)

15-109. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles 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. (2000 Code, § 15-109)

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[1]Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

[2]This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

15-110. Presumption with respect to traffic control signs, etc. When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved and made official. (2000 Code, § 15-110)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (2000 Code, § 15-111)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (2000 Code, § 15-112)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (2000 Code, § 15-113)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (2000 Code, § 15-114)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (2000 Code, § 15-115)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in

place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (2000 Code, § 15-116)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (2000 Code, § 15-117)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (2000 Code, § 15-118)

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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

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

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

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (2000 Code, § 15-119)

15-120. Damaging pavements. No person shall operate or cause to be operated upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (2000 Code, § 15-120)

15-121. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (2000 Code, § 15-121)

15-122. Commercial vehicles prohibited on certain residential streets. (1) No commercial vehicles shall be permitted on residential streets within the corporate limits, except for the purpose of making deliveries to residences located on that street or to residences in the immediate area of that street.

(2) The city manager or his designee shall have the authority to post appropriate signs notifying the public that commercial traffic is prohibited on any street affected by this chapter.

(3) The operation of school buses and buses used to transport persons to and from a place of worship shall be exempt from the provisions of this chapter.

(4) The operation of vehicles transporting children to and from the recreational center, day care centers, and/or the boys and girls club shall be exempt from the provisions of this chapter.

(5) Emergency vehicles are exempt from the provisions of this chapter.

(6) The violation of this chapter shall be punishable by a fine not exceeding fifty dollars ($50.00).

(7) For the purposes of clarity and understanding it is specifically stated that Mill Street is designated a residential street and commercial traffic is prohibited on this street pursuant to this chapter. (2000 Code, § 15-122)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.
15-202. Operation of authorized emergency vehicles.
15-203. Following emergency vehicles.
15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (2000 Code, § 15-201)

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (2000 Code, § 15-202)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (2000 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (2000 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.
15-302. At intersections.
15-303. In school zones.
15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (2000 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (2000 Code, § 15-302)

15-303. In school zones. (1) Generally, pursuant to Tennessee Code Annotated § 55-8-152 special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this subsection. Speed limits enacted pursuant to this subsection shall not apply at school entrances and exits to and from controlled access highways on the system of state highways.

(2) When the city council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (2000 Code, § 15-303)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (2000 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.
15-402. Right turns.
15-403. Left turns on two-way roadways.
15-404. Left turns on other than two-way roadways.
15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (2000 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (2000 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two (2) roadways. (2000 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (2000 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (2000 Code, § 15-405)

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[1]State law reference
Tennessee Code Annotated § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. Upon approach of authorized emergency vehicles.
15-502. When emerging from alleys, etc.
15-503. To prevent obstructing an intersection.
15-504. At railroad crossings.
15-505. At "stop" signs.
15-506. At "yield" signs.
15-507. At traffic control signals generally.
15-508. At flashing traffic control signals.
15-509. At pedestrian control signals.
15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, 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. (2000 Code, § 15-501)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (2000 Code, § 15-502)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (2000 Code, § 15-503)

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') 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 one thousand five hundred feet (1,500') 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. (2000 Code, § 15-504)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (2000 Code, § 15-505)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (2000 Code, § 15-506)

15-507. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (2000 Code, § 15-507)

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if there is no crosswalk or limit line, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (2000 Code, § 15-508)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (2000 Code, § 15-509)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (2000 Code, § 15-510)

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[1]State law reference
Tennessee Code Annotated § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally.
15-602. Angle parking.
15-603. Occupancy of more than one space.
15-604. Where prohibited.
15-605. Loading and unloading zones.
15-606. Parking permits.
15-607. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a privately owned vehicle parked on any public street or alley, within the central business district, or on any city owned parking lot between the hours of 12:00 A.M. and 5:00 A.M. without a city issued permit which specifies the designated area in which such vehicle shall be parked. No person shall park or leave a vehicle parked on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police. All vehicles parked in violation of this section shall be regarded as an illegally parked vehicle and shall be subject to towing and impoundment by the Elizabethton Police Department as set forth in § 15-704 of this code.

The city manager or the chief of police may designate any street or portion of any street as a "no parking zone" and have appropriate signs erected. No parking shall be permitted in any area which shall restrict the flow of traffic or impede the flow of traffic to the extent that two (2) vehicles cannot pass on the street because of the presence of such parked vehicles. No vehicles shall be parked on the street within fifteen feet (15') of any intersection or within one hundred feet (100') of the crest of a hill, where posted. Unless otherwise posted, parking in residential areas where the streets are twenty-four feet (24'), or less,

in width shall be limited to the east side of the north-south streets and the south side of east-west streets.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (2000 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (2000 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space. (2000 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection or within fifteen feet (15') thereof;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within fifty feet (50') of a railroad crossing;

(7) 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 the entrance;

(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;

(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(10) Upon any bridge;

(11) Alongside any curb painted yellow or red by the city;

(12) Within one hundred feet (100') to the crest of a hill, where posted;

(13) At any place where official signs prohibit stopping;

(14) 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 physically handicapped or parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate or placard as set forth in the state statutes, or a disabled veteran's license plate issued by any state;

(15) On the streets and alleys in the central business district and on any city owned parking lot between the hours of 12:00 A.M. and 5:00 A.M. unless the vehicle displays a proper parking permit issued by the city;

(16) No commercial vehicle or motor home shall be parked on the streets, except for the purposes of loading and unloading. No commercial vehicle or motor home shall be parked on a city owned parking lot unless the vehicle displays a proper parking permit issued by the city;

(17) For the purposes of this chapter a commercial vehicle is defined as any vehicle weighing in excess of twenty-six thousand (26,000) pounds or having more than two (2) axles;

(18) No unattended trailers shall be parked upon the city streets or city owned parking lots.

(19) No vehicle shall be permitted to park on the median strip between the sidewalk and the curb with the following exceptions:

(a) Where off-street parking on private property cannot be provided;

(b) Where public venues are held and off-street parking cannot be provided. (2000 Code, § 15-604, as amended by Ord. #47-18, Oct. 2011)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (2000 Code, § 15-605)

15-606. Parking permits. A parking permit may be obtained for parking between the hours of 12:00 A.M. and 5:00 A.M. in designated city owned parking lots upon application made to the city clerk and approved by the city manager. Such permits shall be non-transferable and shall be from the period of July 1 through June 30 of the following year. City-owned vehicles are exempt from permit requirements. Required emergency personnel shall be issued a parking permit for their private vehicles. (2000 Code, § 15-606)

15-607. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2000 Code, § 15-607)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Impoundment of vehicles.
15-705. Fines and costs.

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (2000 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (2000 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (2000 Code, § 15-703)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of

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[1]Municipal code reference
Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 1.
State law reference
Tennessee Code Annotated § 7-63-101, et seq.

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 twenty-five dollars ($25.00) and a storage cost of ten dollars ($10.00) per day shall also be charged in addition to the towing charge incurred. (2000 Code, § 15-704)

15-705. Fines and costs. The fines and costs for violations of the provisions of this chapter shall be as set forth in title 3, chapter 4 of this code. (2000 Code, § 15-705)

CHAPTER 8

NEIGHBORHOOD TRAFFIC MANAGEMENT PROGRAM

SECTION

15-801. Policies governing the neighborhood traffic management program.
15-802. Process and procedures governing the neighborhood traffic management program.

15-801. Policies governing the neighborhood traffic management program. The following policies shall govern the application of the neighborhood traffic management program within the City of Elizabethton, Tennessee.

(1) This program shall be applied to existing local streets serving predominantly single-family residential neighborhoods. Through traffic (defined as traffic having no immediate origin or destination in the neighborhood) should be routed to the maximum extent possible to the major roadways designated on the most recent versions of the major street plan, collector street plan, and area plans prepared by the Elizabethton Planning Commission.

(2) The volume of rerouted traffic acceptable as a result of a traffic management project shall be defined on a project-by-project basis. It is not the intent of this program to simply relocate traffic or traffic concerns to other local residential streets, however it may be desirable to better balance traffic across a network of residential streets.

(3) Emergency vehicle access within and through neighborhoods will be carefully considered in the evaluation of traffic management request and must be preserved in a reasonable manner. Certain traffic management techniques may result in increased emergency response times to certain streets and neighborhoods and these impacts must be carefully considered by the neighborhood in developing a traffic management program.

(4) A variety of traffic calming strategies and techniques shall be employed to achieve the neighborhood traffic management plan objectives. Such traffic calming strategies and techniques shall be planned and designed in conformance with sound engineering and planning practices. All final plans and programs shall be reviewed and approved by the Elizabethton City Council prior to implementation.

(5) Certain procedures must be followed to implement the neighborhood traffic management plan requests in accordance with applicable codes, related policies, and the available funding/resources. At a minimum the procedures shall provide for:

(a) Submittal of concerns and project proposals;

(b) Evaluation by city staff of conditions and proposals;

(c) Citizen participation in and endorsement of plan development and evaluation;

(d) Methods of temporarily testing traffic management plans when needed; and,

(e) Communication of any test results and specific findings to area residents and affected neighborhoods before installation of temporary or permanent traffic calming devices.

(6) The design and installation costs of any neighborhood traffic management program will be the responsibility of the city, with the exception of any needed right-of-way and/or easement and any on-going landscaping maintenance requirements which shall both be the responsibility of the neighborhood. A defined neighborhood group or association shall be required to execute an agreement with the City of Elizabethton for the ongoing maintenance and upkeep by that group of any installation of techniques that include landscaping features so long as such landscaping shall exist. Any costs for removal or modification of any neighborhood traffic management program installation shall be the sole responsibility of the neighborhood if it is the result of the neighborhood's request. (2000 Code, § 15-801)

15-802. <u>Process and procedures governing the neighborhood traffic management program</u>. The following process and procedures are considered typical for receiving, responding to, and managing residents' requests for neighborhood traffic management on their street or in their neighborhood. The city will attempt to apply this process to all requests received. Variations in this process may be approved by the city when deemed appropriate due to unique circumstances.

STEP 1: Identification of Neighborhood Problem

A neighborhood representative or association contacts city planning staff to discuss neighborhood traffic problems or concerns. City staff provides a copy of the NTMP document and reviews its key elements including the required application, neighborhood representative completes and submits to planning development the NTMP application, neighborhood involvement requirements, petition process and installation/evaluation process. A neighborhood representative completes and submits to planning department the NTMP application that generally outlines issues and concerns and requests a neighborhood workshop meeting.

STEP 2: Preliminary Analysis of Neighborhood Problem

City staff performs necessary data collection and analysis to assess and quantify the traffic and safety conditions in the neighborhood. City staff identifies the tentative study area; collects preliminary information from their files and other potentially affected agencies and completes any needed traffic analysis. While there are no absolute minimum criteria or warrants established for use of

NTMP techniques, staff will refer to the following guidelines when evaluating the magnitude of traffic and safety problems, potential for improvement using NTMP, and establishing priorities for project implementation:

A. Minimum Vehicular Volume

Daily traffic volumes greater than one thousand (1,000) vehicles or peak hour volumes greater than one hundred (100) vehicles are typically required to consider NTMP efforts on a particular residential street.

B. Cut Through Traffic

Cut through traffic is typically quantified by estimating actual traffic generation from within the affected area. License plate surveys may be conducted to determine more accurately the amount and nature of vehicles "cutting through" from outside the neighborhood or street. Cut through traffic should generally represent twenty-five percent (25%) or more of the total daily street volume to justify NTMP efforts for this reason alone.

C. Speed

Speeding problems typically exist when more than fifteen percent (15%) of the traffic stream is traveling at least 10 mph over the posted or statutory speed limit.

D. Accidents--Pedestrians, Bicycles, Autos

Accidental problems are considered significant when there are three (3) or more reported accidents along a residential street or within a neighborhood during a period of twelve (12) consecutive months.

E. Intersection Volumes

Residential street intersection problems may potentially exist when the total crossing volumes are greater than three thousand (3,000) vehicles on an average day.

F. Street Grades and Alignment

NTMP devices are not typically installed on streets with grades exceeding eight percent (8%), or where a combination of vertical and horizontal alignment would result in inadequate stopping sight distance for motorists encountering NTMP devices.

G. Transit School and Emergency Routes

Traffic calming devices are not typically installed on streets serving as a designated transit route or primary emergency access route. School bus routes should also be considered.

Step 3: Neighborhood Traffic Team Meeting

City staff and representatives of other potentially affected agencies first meet with the designated neighborhood representatives (referred to as the "traffic team," typically from two to five persons) to discuss traffic problems and concerns, potential solutions and confirm the "affected area" to be ultimately petitioned on final NTMP plan recommendations. The "affected area" is generally defined as those properties along streets expected to receive NTMP devices, those streets whose access is substantially dependent upon the streets to be calmed and any streets expected to receive significant increases in traffic volume or type as a result of the NTMP installation. City council shall be responsible for final approval of the "affected area" to be petitioned.

Step 4: Neighborhood Workshop Meeting

City staff in conjunction with neighborhood representatives schedules and holds a meeting (advertised by the neighborhood) for affected area residents to review the issues, results of the traffic team's and staff's preliminary analysis, and potential techniques for solutions. The purpose of the workshop is to overview the neighborhood concerns, present and discuss potential solutions through the NTMP and develop consensus between the city and workshop attendees for the strategies and devices that will be recommended to the affected area residents through the petition process. Representatives of other affected agencies such as fire, police and schools may be present at this meeting. In the event that the traffic management plan is revised in this step, city staff shall review and revise if necessary the "affected area" identified in Step 3.

Step 5: Petition Process

Neighborhood representatives develop and submit to planning department a proposed petition attachment that clearly outlines the proposed NTMP. Planning staff reviews and approves the petition attachment for circulation with the standard petition form. If approved, neighborhood representatives next circulate the petition within the identified affected area. The petition must be delivered (in a legally acceptable manner) or offered to all residents (or property owners if vacant) in the affected area. To proceed further with NTMP project design and implementation, a positive response must be obtained by sixty-seven percent (67%) or more of the total number of properties in the petition area.

Only one petition/vote shall be allowed per property with the exception of duplex dwellings wherein each dwelling unit shall be allowed one vote, typically the property owner. All original petition responses, including those signatures in opposition to the proposal shall be provided to city planning department.

If the petition does not achieve the required level of support from the neighborhood, representatives may return to Step 3 to evaluate potential revisions to the NTMP plan and a second petition process.

Step 6: Project Design and Implementation

When a NTMP project has received the necessary support, city staff schedules design and implementation of the project within budgetary constraints. Depending upon the number of NTMP requests received and the available funding for design and construction, a project may be placed on a waiting list and prioritized based on relative need.

Ongoing landscaping maintenance and any necessary right-of-way or easement dedication will be at the cost of the neighborhood. Any necessary property dedication or landscape maintenance agreement shall be completed prior to final project design.

Certain techniques may be installed for a "test period" while others may be installed in a permanent fashion. All installations will be monitored and evaluated by city staff for desired effectiveness. A monitoring period along with measurable objectives and performance measures will be established for each program installation.

Step 7: Monitoring and Evaluation

Within sixty to ninety (60-90) days after installation of the project, city staff will begin evaluation of the project, including resident and motorist reaction, field observations, traffic counts, speed studies and other data collection as needed. If the project has not met its objectives within the monitoring period, staff will notify the neighborhood representatives. The staff and the neighborhood representatives may then consider alternative solutions. (Return to Step 3)

Step 8. Removal of a NTMP Project

If city staff decides that the project should be modified or removed for public health and safety reasons, they shall proceed to remove or modify the installation upon notification to the neighborhood representatives. If city staff has no concerns with the NTMP project but the neighborhood itself decides that the traffic calming devices should be removed or significantly altered, the

neighborhood must furnish petitions and signatures (see Step 5) of more than sixty-seven percent (67%) of households and businesses in support of the removal or alteration. The neighborhood may also be required to fund the removal or alteration of the project.

Step 9: Recommendation of an NTMP Project by management and/or staff

Should the city manager and/or staff determine that certain public safety issues require the consideration of traffic calming devices on certain city streets, then such recommendations shall be forwarded to the city council for action. The criteria governing the application of this process would be consistent with the overall policies set forth in this chapter. This step may be utilized when the city is a major property owner on a certain street or when a public safety situation has been identified by city staff. The city council shall hold a public hearing on the proposed action, after proper notification of property owners along the affected street or neighborhood. The public hearing shall be held prior to the approval of the installation of traffic calming devices. Nothing in this step shall preclude the use of the petition process as outlined in this chapter. (2000 Code, § 15-802)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. SIDEWALK REGULATIONS.

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 awnings, etc., restricted.
16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-106. Littering streets, alleys, or sidewalks prohibited.
16-107. Abutting occupants to keep sidewalks clean, etc.
16-108. Parades regulated.
16-109. Operation of trains at crossings regulated.
16-110. Animals and vehicles on sidewalks.
16-111. Street acceptance policy.
16-112. Uniform numbering system for properties and buildings.
16-113. Regulation of use of play vehicles in business districts and other areas.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall obstruct 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. (2000 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen feet (14'). (2000 Code, § 16-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, or other obstruction which prevents persons

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2000 Code, § 16-103)

16-104. Projecting awnings, etc., restricted. No person shall erect or maintain awnings or other projections which shall project from any building or structure over any sidewalk more than the width of the sidewalk. Furthermore, a clear space of not less than eight feet (8') shall be provided below all parts of awnings, or other projections. (2000 Code, § 16-104)

16-105. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate to swing open upon or over any street, alley, or sidewalk. (2000 Code, § 16-105)

16-106. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to place, throw, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, or other objects which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (2000 Code, § 16-106)

16-107. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting a sidewalk are required to keep the sidewalk clean and unobstructed. Also, immediately after a snow such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2000 Code, § 16-107)

16-108. Parades regulated. It shall be unlawful for any person, club, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets of the city without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city 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 and unless such representative, for an event with less than three hundred (300) participants, shall provide a certificate of insurance at the city manager's request. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out this agreement to clean up the resulting litter immediately. (Ord. #48-20, Oct. 2012)

16-109. 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. (2000 Code, § 16-109, modified)

16-110. 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 to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2000 Code, § 16-110)

16-111. Street acceptance policy. In order to provide for adequate street improvements, elimination of traffic congestion, and the health, safety, and general welfare of the citizens of the City of Elizabethton, Tennessee:

(1) The City Council of the City of Elizabethton, Tennessee, shall not accept as a public street any recorded right-of-way until it has met the minimum construction standards of the Subdivision Regulations[1] of the City of Elizabethton, Tennessee.

(2) Prior to final acceptance of a proposed street as a public street, the Elizabethton Regional Planning Commission shall study a plat of the proposed street and make its approval or disapproval known to the city council. (2000 Code, § 16-111)

16-112. Uniform numbering system for properties and buildings.

(1) System adopted. A uniform system of numbering properties and principal buildings, as shown on the map identified by the title Elizabethton, Tennessee - Property Numbering System which is filed in the office of the city clerk, is hereby adopted for use in the City of Elizabethton, Tennessee. This map and all explanatory matter thereon is hereby adopted and made a part of this section.

(a) All properties or parcels of land within the corporate limits of Elizabethton, Tennessee, shall hereafter be identified by reference to the uniform numbering system adopted herein, provided, all existing numbers of property and buildings not now in conformity with provisions of this section shall be changed to conform to the system herein adopted within two (2) months from the date of passage of the provisions of this section.

(b) A separate number shall be assigned according to the interval designated in the following schedule and as indicated on the accompanying maps.

Within Zone 2, a separate number shall be assigned for each fifty feet (50') of frontage.

(c) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal

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[1]The subdivision regulations are of record in the planning and development office.

building is occupied by more than one (1) business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(d) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. The purchase and installation of numerals shall be the responsibility of the property owner.

(2) Administration. (a) The building department shall be responsible for maintaining a record of the numbering system and coordinating such activity with and through the Carter County Emergency Communications District (911). In the performance of this responsibility the building department shall be guided by the provisions of this section.

(b) The building department shall keep a record of all numbers assigned under this section. (2000 Code, § 16-112)

16-113. Regulation of use of play vehicles in business districts and other areas. It shall be unlawful for any person to use roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels on any public street, roadway, alley, sidewalk, or in any public park, within any designated or zoned business district, except in such areas as may be specifically designated for such purpose and so identified by signage, such as upon the linear pathway. It shall be unlawful for any person to use roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels at any city owned facility, except in such areas as may be specifically designated for such purpose and so identified by signage. It shall be unlawful for any person to utilize roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels in an unlawful or reckless manner which would interfere with or inconvenience any pedestrians using such rights-of-way. The riding of roller skates, roller blades, scooters, skateboards, or any similar vehicle or toy or article on wheels, on picnic tables, benches, or other park facilities is strictly prohibited. (2000 Code, § 16-113)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required.
16-202. Applications.
16-203. Fee.
16-204. Deposit or bond.
16-205. Manner of excavating--barricades and lights--temporary sidewalks.
16-206. Restoration of streets, etc.
16-207. Insurance.
16-208. Time limits.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city engineer is open for business and said permit shall be retroactive to the date when the work was begun. (2000 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the building official, 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 to the work to be done. Such application shall be rejected or

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[1]State law reference

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

approved by the building official within forty-eight (48) hours of its filing. (2000 Code, § 16-202)

16-203. Fee. The fee for such permits shall be as follows:

Open cuts in pavement with maximum depth of trench to three feet (3').

Five dollars and forty cents ($5.40) per lineal foot of horizontal pavement cut.

Open cuts in pavement with maximum depth of trench between three feet and six feet (3' and 6').

Seven dollars and twenty cents ($7.20) per lineal foot of horizontal pavement cut.

Tunneling under pavement without affecting base, pavement, or load bearing properties of the pavement.

One dollar ($1.00) per lineal foot of horizontal pavement tunneling.

Open cuts in nonpaved city owned public righty-of-way.

One dollar ($1.00) per lineal foot of horizontal ground cut.

In no case shall the fee exceed fifty dollars ($50.00) for this item. (2000 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the building department a cash deposit to insure the proper restoration of the ground and laying of the pavement. The deposit shall be as follows:

Open cuts in pavement of thickness up to three inches (3") with maximum depth of trench to three feet (3').

Twenty-five dollars ($25.00) per lineal foot of horizontal pavement cut.

Open cuts in pavement of thickness up to three inches (3") with maximum depth of trench between three feet and six feet (3' and 6').

Fifty dollars ($50.00) per lineal foot of horizontal pavement cut.

Tunneling under pavement without affecting base, pavement, or load bearing properties of the pavement.

Twenty dollars ($20.00) per lineal foot of horizontal pavement tunneling.

Open cuts in non paved city owned public right-of-way.

Ten dollars ($10.00) per lineal foot of horizontal ground cut.

Cuts affecting sidewalks, curbs and/or other pavements or structures not described above.

Bond to be calculated separately.

Where a utility cut does not fit into the categories above, the building official will determine the required deposit by calculations deemed applicable by him. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the building official may increase the amount of the deposit to an amount considered by him to be adequate to cover said cost. From this deposit

shall be deducted the total expense to the city of repairing any part of the utility cut if this is done by the city or at its expense.

A portion of the balance of the deposit (no greater than fifty percent (50%)) shall be returned to the applicant without interest after the tunnel or excavation has been completely repaired to the satisfaction of the building official. The remaining balance of the deposit shall be returned to the applicant without interest after a period of one (1) year from the date the tunnel or excavation was completely repaired to the satisfaction of the building official. If additional repairs to the utility cut are needed within this one (1) year period, the applicant will be given a notice by the building official to make such repairs within a period of time designated by the building official. If the applicant fails to make such repairs within the given period of time to the satisfaction of the building official, then the city shall use the deposit to cover all costs associated with making such repairs.

In lieu of a deposit the applicant may deposit with the building department a surety bond in such form and amount as the building official shall deem adequate, based on the procedure stated above, to cover the costs to the city if the applicant fails to make proper restoration. The surety bond shall be treated in the same manner as a cash deposit as described above. (2000 Code, § 16-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (2000 Code, § 16-205)

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 said street, alley, or public place to its original condition by the standards and methods described as follows:

BACKFILLING

(1) General:

(a) After pipework and pipe bedding has been approved, backfill trenches with TYPE I, TYPE II, OR TYPE III BACKFILL, as hereinafter specified, indicated, or as authorized.

(b) Utility cuts crossing streets, roads, gravel driveways, and dirt driveways: Backfill the trenches and make the crossing usable by vehicular traffic immediately after laying pipe and obtaining approval

thereof, and maintain these crossings usable by vehicular traffic at all times. Do not under any circumstances leave street or road crossing or a private driveway unusable overnight.

(c) For each area of utility cut, allow only a minimum length of trench to remain without backfill at any time. Any area to remain without backfill overnight must be approved by building official prior to cut. Under no circumstances will a trench be allowed to stay open overnight unless proper barricading is provided and there is a legitimate reason for leaving the cut open. All unbackfilled trenches shall be provided with barricades, warning lights and flares, and other safety devices or measures when the work is not in progress.

(d) All compaction of backfill shall be subject to field density tests by the building official and/or a testing laboratory.

(e) At applicant's expense, remove, replace, and recompact all backfill which fails to comply with compaction density requirements herein specified.

(2) Type I backfill, for utility cuts under nonpaved areas, except areas within five feet (5') horizontal distance from edge of pavement, and for utility cuts where indicated or authorized:

(a) Unless otherwise indicated, specified, or authorized, place all Type I backfill from top of pipe bedding up to finished grade by approved method. Windrow suitable excess excavated materials over the trenches, and after sufficient settlement has occurred, not to exceed a two (2) week period, complete the surface dressing surplus material removal, and surface cleanup and restoration.

(b) Type I backfill materials from top of pipe bedding up to finished grade shall be any materials removed from the excavation and suitable for backfill, except do not use as backfill material any pieces of the following materials which are larger than six inches (6") in their greatest dimension: rock; stone; concrete; asphalt paving; or masonry. Other backfill materials such as crushed stone may be approved by the building official.

(c) All disturbed surfaces must be replaced with proper vegetation or ground cover.

(3) Type II backfill, for utility cut which parallels paved surfaces and which is installed within five feet (5') horizontal distance from edge of pavement and for utility cut where indicated or authorized:

(a) Unless otherwise indicated, specified or authorized, place all Type II backfill from top of pipe bedding to finished grade or paving subgrade in six inch (6") maximum thickness loose layers, and compact each layer with mechanical tampers to obtain ninety-five percent (95%) of the maximum density as determined by ASTM D698 (Standard Proctor).

(b) Backfill materials from top of pipe bedding up to finished grade or paving subgrade shall be any materials removed from the excavation and suitable for backfill, except do not use as backfill material any pieces of the following materials which are larger than six inch (6") in their greatest dimension: rock; stone; concrete; asphalt paving; or masonry. Other backfill materials such as crushed stone may be approved by the building official.

(4) Type III backfill, for utility cut under paved areas, for areas proposed to be paved, and for utility cut where indicated or authorized:

(a) Where Type III backfill is indicated, specified, or authorized, backfill trenches from top of pipe bedding to paving subgrade with granular materials compacted to one hundred percent (100%) of the maximum density as determined by ASTM D2049.

(5) Dispose of all excavated materials which are not placed as backfill in a proper manner.

(6) Final requirements. (a) Throughout construction of the project until the time of final acceptance, and also during the duration of the guarantee period: Maintain the backfilled and repaved trenches.

(b) At the applicant's expense:

(i) Refill, recompact, and smooth off as required all backfill which settles, so that all backfill finally conforms to the original grade or paving subgrade as applicable.

(ii) All pavement which may be damaged by settlement of backfill shall be removed and replaced after backfill has been repaired as specified above.

CUTTING AND REPLACING PAVEMENT AND OTHER SPECIAL SURFACES

(1) Restore to at least the conditions which existed before excavation, all surfaces which have been disturbed by the utility cut. Prior to construction, the building official will examine the existing surface in the applicant's presence, and the type of surface to be replaced in each case shall be determined by the building official.

(2) Where utility cuts are to be made among shoulder of roads and/or streets, the applicant shall repair all damage to paving which occurs as a result of the utility cut. Maintain all crossings until project completion.

(3) Prior to making any excavation, outline the limits of the proposed excavation and saw cut the pavement along the outline to a depth of at least one inch (1") to provide a smooth pavement cut line. Carefully remove the pavement between the saw cuts and avoid damage to the paved surface outside the saw cuts. Replace with new surfaces all existing surfaces which are cut, removed, or otherwise damaged by the work under this contract, as specified hereinafter.

All new surfaces shall conform accurately to the elevations and contours of the existing adjacent undisturbed surfaces.

(4) Existing gravel surfaces: Replace these with a six inch (6") thick compacted layer of new road gravel.

(5) Existing asphalt ("black top" single bituminous surfaces and double bituminous surfaces): replace these with a six inch (6") thick compacted base course of new road gravel. The 6 base course shall be considered as a temporary traffic surface and shall be maintained in good condition until paved. Maintenance shall include: filling pot holes, work necessary to confine stone to trench area by sweeping with mechanical sweeper with collection hopper and water fed brooms, and watering temporary surface daily, if necessary, for dust control. To avoid mixture of earth backfill and limestone base, all excess excavated material shall be removed from the work area prior to placing of the base course. Permanent pavement to consist of three inches (3") of Tennessee Department of Transportation, Bureau of Highways Subsection 411, Grading D, Asphaltic Concrete Surface (Hot Mix). Before laying asphaltic concrete surface course, apply a prime coat to the underlying base course, as specified hereinafter.

(6) Prime coat: This shall be one of the following types of liquid asphalt as authorized for the conditions involved: RC 70; RC 250; MC 250. Heat the priming material and apply it with a suitable asphalt distributor, at a uniform rate of 0.25 to 0.50 gallons per square yard of base, all as approved.

(7) Repair of existing concrete surfaces including roads, sidewalks, curbs, and gutters:

(a) General: Remove existing sidewalks and curbs and gutters only as required for utility cut and replace removed sidewalks and curbs and gutters with new sidewalks and curbs and gutters, which shall match existing undisturbed corresponding items in dimensions, finishes, grades, and arrangements.

(b) New concrete shall be three thousand (3,000) psi with an air entrainment value of six percent (6%) (± one percent (1%)). The water cement ratio shall be not greater than 0.50 by weight. Concrete slump shall be one to three inches (1" - 3").

(c) Expansion joints: Provide expansion joints on twenty foot (20') maximum centers in curbs and gutters and on thirty-five foot (35') maximum, centers in sidewalks, full depth of concrete cross section, and formed with ASTM D1751 one-half inch (1/2") thick expansion joint filler.

(8) Where utility cut is made on the shoulders parallel to asphalt, maintain ditches until they are firm and present no traffic hazard. Where authorized, place six inch (6") thick compacted layers of new road gravel. (2000 Code, § 16-206)

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 be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved and in no case shall the insurance limits be less than those stated by the building official. (2000 Code, § 16-207)

16-208. Time limits. Upon approval of the utility cut permit by the building official, the applicant shall have sixty (60) days in which to begin the utility cut. After sixty (60) days the utility cut permit will be void and the applicant must reapply for a new utility cut permit.

Before beginning any utility cut the applicant must notify the building official of the exact time the utility cut will be made. This notification must be made at least five (5) hours before making the utility cut if the utility cut is to be made during normal work hours of the building official. If the utility cut is to be made at a time other than during normal work hours of the building official then the applicant must notify the building official at least seventy-two (72) hours before the utility cut is to be made. Any violation of this notification schedule will result in the applicant having to pay an additional fee equal to that of the original permit fee. Any right-of-way cuts made because of the need for emergency repairs may be performed, however, a utility cut permit must be obtained during the next business day.

The applicant for a utility cut permit must state a complete time frame for the restoration of a utility cut at the time of application. This time frame may or may not be approved by the building official. In any case a complete time frame must be agreed upon before the utility cut permit will be granted. Failure to restore the utility cut within the time frame established for the utility cut permit will result in a penalty being imposed on the applicant equal to the original fee for each complete twenty-four (24) hour period after the expiration of the time frame established for the utility cut permit. In cases where the utility cut cannot be restored within the time frame established for the utility cut permit for legitimate reasons, the applicant may request from the building official an extension on the allowed time. Such request must be made before the expiration of time on the utility cut permit. The building official shall in his sole discretion approve or reject such request based on his judgment of the merit of the request.

The building official may at any time during the utility cut process order the applicant to immediately restore the utility cut to its original condition. The building official may at any time authorize the restoration of the utility cut either by city personnel or a contractor hired by the city to perform the

restoration. If the utility cut is restored by the city or on its behalf, all costs will be paid for by the deposit or bond provided by the applicant.

In addition to the notification procedure required before beginning a utility cut, the building official shall be notified by the applicant of the time for beginning any stage of the utility cut restoration as deemed necessary by the building official for inspection purposes. Failure to notify the building official at least one (1) hour before the specified stage of the restoration process will result in a penalty, for each offense, to be paid by the contractor equal to the permit fee. (2000 Code, § 16-208)

CHAPTER 3

SIDEWALK REGULATIONS

SECTION

16-301. Definitions.
16-302. Scope.
16-303. Exceptions.
16-304. Sidewalk clearance.
16-305. Pushcarts.
16-306. Performers of sidewalk entertainment.
16-307. Outdoor dining areas.
16-308. Outdoor merchandise areas.
16-309. Permits or encroachment agreements required.
16-310. Application.
16-311. Term, fees, transferability, display.
16-312. Denial.
16-313. Revocation.
16-314. Penalties.

16-301. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "(Central) Business district." The general use zoning district defined by that name in title 14, chapter 3 of this code and outlined on the official zoning map of the city.

(2) "Merchandise." Includes, but is not limited to, plants, flowers, wearing apparel jewelry, ornaments, art work, household or office supplies, food or beverages of any kind whether or not for immediate consumption, or other goods or wares.

(3) "Outdoor dining area." An area in front of or adjacent to a restaurant and locate on a public sidewalk or square whereon tables, chairs or benches are placed for dining purposes.

(4) "Outdoor merchandise area." An area in front of or adjacent to a retail business where merchandise is located on a public sidewalk for the purpose of displaying, exhibiting selling or offering for sale merchandise.

(5) "Pushcart." A wheeled cart which may be moved by one (1) person without the assistance of a motor and which is designed and used for displaying, keeping or storing an food, beverages or other articles for sale by a vendor.

(6) "Sidewalk." All that area legally open to public use as a pedestrian public way between the curb line and the public right-of-way boundary along the abutting property.

(7) " Sidewalk entertainment." Non-amplified performances occurring on the sidewalk which may include, but not be limited to, music, dance, mimes,

magicians, clowns, juggler and theatrical presentations, but specifically excluding speeches, lectures, and sermons. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-302. Scope. Except as a permit may be issued pursuant to these regulations, it shall be unlawful for any person to sell, offer for sale, exhibit or demonstrate any goods, wares, merchandise, mechanical devices, animals or any article of any kind whatsoever, by whatever name called, upon any public street, sidewalk, square, avenue, alley, or city property within the corporate limits of the city. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-303. Exceptions. (1) None of the requirements of this article for permits or encroachment agreement shall apply to the sale of food and other products from pushcarts, outdoor dining areas, of outdoor merchandise areas which are otherwise part of a city approved community celebration, event, or festival.

(2) Permits issues for pushcarts and outdoor merchandise area under the provision of this article shall be temporarily suspended at locations designated for an approved community celebration, event, or festival. Permit holders may, however, continue the operation during the community celebration, event, or festival so long a written documentation of approval from the community celebration, event, or festival organizer is obtained. Permit issues for outdoor dining areas shall not be temporarily suspended in areas designated for approved community celebration, event, or festival. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-304. Sidewalk clearance. The primary purpose and intent of sidewalks in reference to these regulations is to allow for the movement of pedestrians within a specific area. The following regulations shall therefore be implemented to ensure this primary purpose.

(1) A pedestrian path through or around any pushcart, outdoor dining area, or outdoor merchandise area shall be clearly visible and remain unobstructed to all pedestrians using the sidewalk at all times. Obstructions include, but are not limited to posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, trees-wells, tree planters, canopy columns, benches, tables, chairs, umbrellas, heaters, and waste receptacles.

(2) The following table shows the minimum width of an unobstructed pedestrian path required for pedestrians to move through or around any pushcart, outdoor dining area, of outdoor merchandise area.

Sidewalk Width	Minimum Pedestrian Path Width
Less than 10 feet.	5 feet, 6 inches

Sidewalk Width	Minimum Pedestrian Path Width
Greater than or equal to 10 feet, but less than 15 feet.	6 feet, 6 inches
Greater than or equal to 15 feet.	8 feet

(3) The minimum width required for a pedestrian path shall flow fluidly and smoothly from one (1) outdoor dining area or outdoor merchandise area to another keeping the path as straight as possible and no immediate turns less than one hundred thirty degrees (130°).

(4) The pedestrian path may be narrowed to thirty six inches (36") inches for a length not to exceed two feet (2') at the discretion of the chief building official to accommodate street furniture or other similar elements or unique circumstances with no more than one narrowing per pushcarts, outdoor dining areas, or outdoor merchandise areas. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***, and amended by Ord. #55-33, Dec. 2019 ***Ch2_03-11-21***)

16-305. Pushcarts. All pushcarts and their operators shall meet the following requirements:

(1) For all pushcarts, a permit and encroachment agreement shall be required.

(2) The pushcart shall not be motorized or propelled in any manner other than the walking motion of the person operating the pushcart, with the exception that persons with disabilities may use a motorized system to propel the pushcart. No motorized assistance shall be used to locate the pushcart on the sidewalk or public place, with the exception that persons with disabilities may use motorized assistance.

(3) The pushcart shall be covered with an appropriate material to prevent exposure of the food or food product to wind, dust, insects and the elements and shall meet any such other regulations as may be required by the county health department or any other applicable regulatory agency. The pushcart operator shall display, in plain view, all required permits as set forth by federal, state, and local laws and shall provide a copy of health department and other regulatory agency permits and/or licenses to the city prior to the issuance of a permit by the city for the pushcart. The pushcart operator shall continuously maintain the required approvals permits and/or licenses and provide evidence to the city of the continuous maintenance of them.

(4) The pushcart shall have attached to it or immediately adjacent to it a proper container for the collection of waste and trash. The pushcart operator shall be responsible for the proper disposal of waste and trash associated with the pushcart operation. No grease, waste, trash or other debris from the pushcart operation shall be deposited on or released onto city property, which includes the streets, sidewalk or other public place nor into the gutter or storm

drainage system. The pushcart operator shall keep the immediate area in a six foot (6') radius from the center of the pushcart clean of garbage, trash, paper, cups, cans or litter associated with the pushcart operation. Unless otherwise permitted by the city, a pushcart operator shall not use city trash receptacles, city street cans or other city waste disposal containers for the disposal of waste and trash associated with the pushcart operation.

(5) The pushcart shall not have attached to it any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers, nor shall the permit holder us any such device to attract attention.

(6) The total signage attached to pushcarts shall be less than four (4) square feet and be exempt from the requirements of title 14, chapter 5 of this code.

(7) The pushcart shall be set up only in the location set forth in the operator's permit issued by the city, and shall not impede, endanger or interfere with pedestrian or vehicular traffic.

(8) The pushcart shall be set up so that a minimum sidewalk clearance shall be provided at all times.

(9) The pushcart shall not be stored, parked or left overnight on any street or sidewalk or in any public parking space of the city.

(10) The pushcart shall operate only at times between the hours of 7:00 A.M. and 11:00 P.M.

(11) No item related to the operation of the pushcart shall be placed on the street, sidewalk, public place or anywhere other than in or on the pushcart except for a container for the collection of waste and trash.

(12) Pushcart operators shall not consume nor be under the influence of alcohol or controlled substance while operating the pushcart.

(13) The dimensions of the pushcart shall be no greater than the following:

(a) Four feet six inches (4' 6") in height as measured from the ground to the highest point of the pushcart; and

(b) Twenty four (24) square feet as measured in length and width (the overall footprint) excluding any trailer hitch; and

(c) Four feet (4') for the height of any umbrella affixed to the pushcart, as measure from the top of the cart to the highest point of the umbrella. No freestanding umbrella or canopy shall be used.

The city reserves the right to require smaller dimensions based upon such factors as, but not limited to, pedestrian and vehicular safety and adequate sight distances.

(14) The pushcart permit holder or her/his designee shall be in attendance at the pushcart at all times, except in case of an emergency.

(15) The pushcart operator shall comply with all federal, state and local laws when operating the pushcart.

(16) The applicant must provide a photograph, drawing or sketch of the design of the pushcart as part of the application for a permit. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-306. Performers of sidewalk entertainment. Performers of sidewalk entertainment shall meet the following requirements:

(1) Not violate the prohibitions on disturbing, annoying and unnecessary noise a set forth in title 11, chapter 2 of the code.

(2) Not violate the prohibitions on solicitation as set forth in city code title 9, chapter 1 and § 11-605.

(3) Not obstruct or cause to be obstructed pedestrian or vehicular traffic, including but not limited to not obstructing or causing to be obstructed sidewalks, doorways or other access areas. Performers of sidewalk entertainment must provide a minimum of six feet (6') of pedestrian path width.

(4) The sale of records, tapes or other products shall not be permitted.

(5) Perform only at times between the hours of 9:00 A.M. and 10:00 P.M.

(6) Not consume nor be under the influence of alcoholic beverages controlled substances while performing, in compliance with the Tennessee laws and regulations.

(7) Not perform any closer than two hundred (200') from another performer.

(8) Not perform at locations designated for an approved community celebration, event, or festival, unless permitted to play at the community celebration, event, or festival by the celebration, event, or festival coordinator unless permission is given in writing by the event or festival coordinator.

(9) No fixtures, items, or devices shall be attached or cause damage to the sidewalk or other public area.

(10) Comply with all federal, state and local laws when performing within the city, including but not limited to, the solicitation ordinance and the noise ordinance. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-307. Outdoor dining areas. Permit holders for outdoor dining areas and their employees shall meet the following requirements:

(1) For all outdoor dining areas, a permit and encroachment agreement shall be required, or for any condition which a fence, canopy, or other structure will overhang the sidewalk.

(2) The permit holder shall set up the outdoor dining area, including, but not limited to, the furniture, canopies, fencing and/or other accessories used for the outdoor dining area, only in the area designated by the city in the encroachment agreement or on the permit, specifically excluding roadways. The outdoor dining area shall not impede, endanger or interfere with pedestrian or vehicular traffic.

(3) Furniture, canopies, barriers, and/or other accessories used for the outdoor dining area shall be located so that the minimum pedestrian path width shall be provided at all times.

(4) The permit holder shall keep the immediate area around the outdoor dining area and the outdoor dining area clean of garbage, trash, paper, cups, cans or litter associated with the operation of the outdoor dining area. All waste and trash shall be properly disposed of by the permit holder.

(5) The permit holder shall comply with all county health and other applicable regulatory agency requirements, including, but not limited to, the requirements for food preparation and service. The permit holder shall display in a conspicuous location all such required permits and/or licenses and shall provide copies of those permits and/or licenses to the city prior to issuance of a permit for an outdoor dining area by the city. The permit holder shall continuously maintain the required approvals, permits and/or licenses and provide evidence to the city of the continuous maintenance of them.

(6) The permit holder shall not have on the premises any bell, siren, horn loudspeaker, flashing lights, or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.

(7) Employees of the permit holder for the outdoor dining area shall not consume alcoholic beverages while working in the outdoor dining area.

(8) Barriers. (a) For any outdoor dining area where alcoholic beverages are served or where the perimeter of the outdoor dining area extends more than three feet (3') into the sidewalk from the building frontage, the full perimeter of the area shall be enclosed by a barrier apart from one (1) opening between forty-two inches and fifty four inches (42" and 54") wide. The alcohol permit holder shall comply with all state and local regulations for the sale, possession and/or consumption of alcoholic beverages and shall provide the city with a copy of any and all required permits or licenses for the sale, possession, and/or consumption of alcoholic beverages and the diagram and/or plans showing the location of the outdoor dining area which were submitted for the permit or license.

(b) Size and type. Barriers shall be between thirty-two and forty inches (32" and 40") in height, and must be free-standing, stable, and removable. Barrier segment bases should be flat with tapered edges that are no more than one-half inch (1/2") inch thick. The lowest point in the barrier shall be no more than six inches (6") from the ground. Acceptable types are portable, sectional fencing with vertical pickets placed end-to-end to create the appearance of a single fence.

(c) Color and materials. Barriers shall be composed of steel or aluminum and painted or finished in black.

(d) Barriers shall be maintained in a clean condition and free from splintering, peeling or chipping paint, rust, or signs of deterioration

or damage to the structure or finishes. The permit holder shall be responsible for the security of the barriers.

(9) Furniture and decorative elements.(a) Materials. Furniture used for an outdoor dining area shall not have frame or support made of flimsy plastic, rubber, unfinished wood, or other non-durable or light material that may easily be blown away or is not made for outdoor use. Encouraged materials include metals, finish grade wood, or sturdy composite or recycled materials.

(b) Colors. The color of furniture and other decorative owner's choice. Colors with low lightness or that match the color scheme of the business are encouraged. Where umbrellas are permitted, the color shall match the color scheme of the business or shall be natural or earth tones.

(c) Furniture or other elements shall not be tied or otherwise secured to trees, street lights, sidewalks, street signs, other street furniture, or hydrants.

(d) Other decorative elements. Umbrellas or other decorative which are used in an outdoor dining area shall be fire retardant, pressure treated securely fastened to withstand strong winds, and may only contain the logo or name of the business in which they represent which shall not be greater than a total of six (6) square feet for each umbrella. Additionally, umbrellas shall be contained within the define outdoor dining area with a height of between seven and ten feet (7' and 10') tall when open. Umbrellas shall not be permitted in outdoor dining areas underneath the East Elk A venue downtown canopies.

(e) No fixtures, furniture, umbrellas, fences, devices, or other decorative materials associated with the outdoor dining area shall be attached or cause damage to trees, street lights, sidewalks, street signs, other street furniture, hydrants, canopy columns, or other public area.

(f) Furniture and other decorative elements shall be maintained in a clean condition and free from splintering, peeling or chipping paint, rust, or deterioration or damage to the structure or finishes. The permit holder shall be responsible for the security of the furniture, accessories, and other decorative elements of the outdoor dining area and the city shall not be responsible for the same.

(10) No alterations or coverings shall be made to the outdoor dining area space. Platforms, artificial turf, paint, or carpet are strictly prohibited.

(11) The permit holder shall comply with the prohibitions on disturbing, annoying and unnecessary noises set forth in title 11, chapter 2 of the code.

(12) The applicant must provide a photograph, drawing or sketch of the design of the furniture and accessories to be used for the: outdoor dining area as part of the application for a permit.

(13) Outdoor dinning area permit holders may also use a portion of their permitted area to display merchandise of the establishment, so long as the portion of the permitted are used for display of merchandise conforms to the

regulations of outdoor merchandise areas. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***, and amended by Ord. #55-33, Dec. 2019 ***Ch2_03-11-21***)

16-308. <u>Outdoor merchandise areas</u>. Permit holders for outdoor merchandise areas and their employees shall meet the following requirements:

(1) A permit and encroachment agreement shall be required for outdoor merchandise areas.

(2) Outdoor merchandise areas shall be located only in the area designated by the city and indicated in the encroachment agreement or on the permit, specifically excluding roadways. Merchandise and the fixtures or devices on which it is displayed shall be located so that they do not impede, endanger or interfere with pedestrian or vehicular traffic.

(3) Merchandise and the fixtures or devices on which it is displayed shall be located so that the minimum sidewalk clearance shall be provided at all times.

(4) No fixtures or devices on which outdoor merchandise is displayed shall be attached or cause damage to the sidewalk or other public area.

(5) Outdoor merchandise areas will be permitted only adjacent to the building or structure in which the retail business is located or between the sidewalk canopy columns where they exist. Outdoor merchandise areas shall not be permitted next to the curb of the street or sidewalk or in roadways or in the middle of the sidewalk where sidewalk canopy columns do not exist.

(6) Merchandise and the fixtures or devices on which the merchandise is displayed must not block regulatory signs, crosswalks or intersections and shall be sufficiently lit during times of low light in order to provide for safe pedestrian passage alongside the outdoor merchandise area.

(7) All merchandise located within an outdoor merchandise area shall be placed so that the outdoor merchandise and the fixtures or devices on which the merchandise is displayed are stable and not easily tipped and do not include sharp edges, protrusions, or other features which may be hazardous to the public.

(8) The lowest point on merchandise displays within the outdoor merchandise area must not exceed a height of twenty-seven inches (27").

(9) All merchandise and the fixtures or devices on which the merchandise is displayed shall be moved inside the building or structure wherein the retail business is located during hours the retail business is not operated and during inclement weather, including, but not limited to, heavy rain, wind, ice or snow.

(10) All merchandise and the fixtures, or devices on which the merchandise is displayed must be secured so that it may not be dislodged during windy or stormy weather prior to being moved inside the building or structure wherein the retail business is located.

(11) In the event of a declared emergency or in a situation where exigent circumstances arise, a permit holder shall remove all articles from the

sidewalk when directed to do so by any law enforcement officer, fire official or emergency medical personnel.

(12) The permit holder for the outdoor merchandise area shall be responsible for the maintenance, upkeep and security of the fixtures or devices on which the merchandise is displayed which shall not be in a state of rust, rot, or decay and the city shall not be responsible for the same.

(13) The permit holder for the outdoor merchandise area shall be responsible for keeping the outdoor merchandise area clean of garbage, trash, paper, associated with the operation of the outdoor merchandise area.

(14) The permit holder for the outdoor merchandise area shall not have on the premises any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.

(15) The total signage attached to the outdoor merchandise area shall be less than four (4) square feet and be exempt from the requirements of title 14, chapter 5 of this code.

(16) Outdoor merchandise areas shall not contain any live animals. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-309. <u>Permits or encroachment agreements required</u>. (1) Upon successfully completing an application and upon meeting all of the requirements in this chapter and the city code, the city clerk or her/his designee shall issue permits or execute encroachment agreements to allow outdoor dining areas, outdoor merchandise areas, or pushcarts only within the (central) business district.

(2) A separate permit or encroachment agreement shall be required for each outdoor dining area, outdoor merchandise area, or pushcart.

(3) Pushcart vendors requesting relocation to a new site must complete a new application and pay a new application permit fee for the new location. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-310. <u>Application</u>. Each application for a permit or encroachment agreement for an outdoor dining area, outdoor merchandise area, or pushcart shall be filed with the city clerk or her/his designee and shall include but not be limited to the following:

(1) The name, address and telephone number of the applicant.

(2) The name of the individual, business or organization making the application and the business address and telephone number.

(3) For permits to allow pushcarts, the application shall include information about the type of food or other product to be sold; proposed times and area of operation; description, drawing, sketch, or photograph of the type of pushcart to be used; and other pertinent information related to the method of doing business under the permit. For permits to allow outdoor dining areas, the application shall include a site plan showing the proposed location of

furniture, canopies, fencing and other accessories for the outdoor dining area; a description drawing, sketch, or photograph showing the design of all furniture, fencing, canopies and accessories to be used in the outdoor dining area; location for the outdoor dining area; and other pertinent information related to the use of the outdoor dining area. For permits to allow outdoor merchandise areas, the application shall include a site plan showing the location of the outdoor merchandise area, the proposed location of fixtures or devices on which the merchandise is to be displayed.

(4) For permits for pushcarts to allow the sale of food, food products and/or beverages and for permits or encroachment agreements for outdoor dining areas, the applicant shall provide and maintain a certificate of insurance for comprehensive general liability and products and completed operations coverage in a minimum amount of one million dollars ($1,000,000.00) per occurrence and in the aggregate, provided that those certificates may be furnished as evidence of such coverage purchased for the applicant's principal place of business for serving food, food products and/or beverages, so long as such certificates meet the minimum acceptable requirements established in this section. For permits to allow the sale of other products from pushcarts, the applicant shall provide and maintain a certificate of insurance for comprehensive general liability in the minimum amount of twenty-five thousand dollars ($25,000.00) per occurrence and in the aggregate. For permits or encroachment agreements for outdoor merchandise areas, the applicant shall provide and maintain a certificate of insurance for comprehensive general liability and products and completed operations coverage in a minimum amount of one million dollars ($1,000,000.00) per occurrence and in the aggregate, provided that those certificates may be furnished as evidence of such coverage purchased for the applicant's retail business, so long as such certificates meet the minimum acceptable requirements established in this section. All certificates shall be issued by an insurance company licensed to do business in Tennessee, shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advance written notice to the city. The permit holder or encroachment agreement party shall continuously maintain the insurance required by this section and shall continuously provide the city with evidence of the insurance required by this section.

(5) For permits to allow pushcarts, the application shall include the name and phone number of the sponsoring restaurant.

(6) The permit holder shall execute a statement on the permit application or encroachment agreement wherein the applicant holds harmless and indemnifies the city from any claims or causes of action arising out of or related to the permitted activity, including, but not limited to, compliance with the Americans with Disabilities Act, the Elizabethton building code and all other federal, state, and local health and safety laws and regulations.

(7) Written approval from the county health department and/or other applicable regulatory agency showing that the pushcart or outdoor dining area has been inspected and is in compliance with current requirements for food handling establishments or sale of other product.

(8) Such additional information as may be requested by the city clerk or her/his designee, which may be necessary to determine compliance with this article.

(9) Payment of the permit fee and/or encroachment fee required.

(10) The city retains the right to increase the amount of insurance required pursuant to this section or elsewhere in this chapter if deemed necessary for protection of the public an the city. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-311. <u>Term, fees, transferability, display</u>. (1) A permit required by this m1icle shall be issued for no greater than twelve (12) months at a time and shall expire on a day twelve (12) months from the issuance of the permit. Permit holders with no violations and in good standing may re-apply annually with no fee for two (2) consecutive years after an application fee has been paid.

(2) Permit holders shall pay the applicable fee required for a permit and/or encroachment agreement. No permit under this article shall be issued until the fee required under this code has been paid in full.

(3) The fee schedule shall be as follows:

(a) Pushcarts:$75.00 per location

(b) Outdoor dining less than or equal to three feet (3') from the facade of the building and merchandise area less than or equal to thirty (30) square feet: $0

(c) Outdoor dining more than three feet (3') from the facade of the building and merchandise area greater than thirty (30), but less than or equal to fifty (50) square feet: seventy-five dollars ($75.00)

(d) Merchandise area greater than fifty (50) square feet: seventy-five dollars ($75.00)

(4) Permits are not transferable or assignable.

(5) The permit must be conspicuously displayed by the permit holder while engage in the activities allowed under the permit.

(6) The city shall designate locations where pushcarts, outdoor dining areas, an outdoor merchandise areas are permitted. No permit holder shall occupy more than fifty percent (50%) of the spaces designated by the city for any single category of the following:

(a) Pushcarts;

(b) Outdoor dining areas, or

(c) Outdoor merchandise areas.

Permits for the designated areas shall be issue following a process established by the planning and development department director after consulting with the regional planning commission and other applicable stakeholders.

(7) The city manager or her/his designee shall formulate any additional rules an regulations necessary for the proper administration of this chapter.

(8) Permit holders are subject to relocation, suspension, or revocation of the permit when their designated space is deemed to cause a hazard to public safety, sight distance, or vehicular congestion or other concerns by the city manager or her/his designee. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***, and amended by Ord. #55-33, Dec. 2019 ***Ch2_03-11-21***)

16-312. Denial. Any applicant denied a permit under this article shall receive a statement, in writing outlining the reasons for denial of the permit. The applicant may appeal the denial of the permit to the city manager within fifteen (15) working days after the date of the written denial. The determination of the city manager shall be final. The permitting or denial of application submitted pursuant to this chapter, or the suspension or revocation of a permit, creates no property right, title, or interest related thereto and/or therein. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

16-313. Revocation. (1) The city manager or her/his designee may suspend or revoke any permit issue pursuant to this article upon the occurrence of any or all of the following events in which the permit holder has:

(a) Provided false information or fraudulently misrepresented information in the permit application.

(b) Violated this article, any local, state, federal law or any regulations of the county health department or other applicable regulatory agency.

(c) Failed to comply with the requirements of this article or the terms of the permit issued or encroachment agreement entered into pursuant to this article.

(d) Operated under the permit in such a manner as to create a public nuisance or to constitute any hazard to the public health, safety or welfare or to damage or destroy public property.

(e) Failed to conspicuously post the permit at all times at the location where the activity is permitted.

(f) Failed or ceased to conduct the activities of a pushcart allowed in the permit for a period of seven (7) consecutive days during the period of May through September of any year.

(g) Failed to secure and maintain any other licenses or permits required by local, state or federal laws or regulations.

(2) Before the permit is suspended or revoked, the city manager or her/his designee shall notify the permit holder of the intent to suspend or revoke the permit and the reasons therefor, shall provide the permit holder a reasonable time period within which to comply with the requirements of this article or the permit, and shall afford the permit holder a reasonable

opportunity to appear and be heard on the question of such suspension or revocation. In the event that the permit holder has not satisfactorily complied with the requirements of this article or the permit within the set time period, the city manager or her/his designee may then suspend or revoke the permit.

(3) A permit may be suspended or revoked if changing conditions of pedestrian or vehicular traffic necessitate removal of pushcarts, outdoor dining areas, and outdoor merchandise areas.

(4) In cases of an emergency or for reasons of immediate safety to others or property, the city manager or their designee may suspend but not revoke a permit without notice for a period not to exceed five (5) days.

16-314. Penalties. It shall be unlawful for any person to violate any of the requirements of this article or of the permit issued under this article.

(1) Such violations shall be a misdemeanor and punishable as provided by Tennessee Code Annotated, § 16-18-302(a).

(2) In addition to and separate and apart from the other remedies set forth in this section, if any person is found to have violated any of the requirements of this article or permit issued under this article, such violations shall subject the offender to a civil penalty if the amount of fifty dollars ($50.00) per day for each day the violation continues, to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been cited for the violation. (as added by Ord. #54-28, Aug. 2018 ***Ch1_12-13-18***)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

1. GARBAGE AND REFUSE.

CHAPTER 1

GARBAGE AND REFUSE

SECTION

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[1]Municipal code reference
Property maintenance regulations: title 13.

17-101. Purpose. This chapter is determined and declared to be a sanitary measure for the protection and promotion of the health, safety and welfare of the citizens of Elizabethton. (2000 Code, § 17-101)

17-102. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory.

(1) "Ashes." All residues resulting from the combustion of coal, coke, wood or any other material or substances in domestic, industrial or commercial stoves, furnaces or boilers.

(2) "Authorized residential container." Shall mean those obtained from the City of Elizabethton, Tennessee, and shall be ninety-six (96) gallon containers which can be handled with the mechanical equipment on the garbage truck and which do not require manual lifting by the sanitation workers.

(a) In the event a residential customer has an overflow it is permissible for this overflow to be deposited curbside in garbage bags.

(b) In the event the residential customer has an overflow on a regular basis then the street and sanitation manager may require the residential user to purchase an additional authorized residential container.

(c) When an additional container is required, the residential customer shall pay to the city the costs incurred by the city for each such residential container.

(3) "Building materials." Any material such as lumber, brick, block stone, plaster, concrete, asphalt, roofing shingles, gutters or any other substances accumulated as the result of repairs or additions to existing buildings or structures, construction of new buildings or structures.

(4) "Bulk container." Shall mean and include front end loading, enclosed, metal, dumpster-type containers having a capacity of no less than four (4) cubic yards nor greater than eight (8) cubic yards. Such containers shall have the capacity, size and be the type as specifically authorized and approved by the street and sanitation manager. All dumpster-type containers being serviced by the city prior to the adoption of this chapter shall be considered "bulk containers."

(5) "Cuttings." All tree limbs, trimmings, shrubbery, etc.

(6) "Garbage." Putrescible animal and vegetable waste, liquid, or otherwise resulting from the handling, processing, preparation, cooking and consumption of food and all cans, bottles and other containers originally used for food stuffs.

(7) "Garden refuse." All accumulations of plants, stems, roots, vegetables and fruits remaining after harvest.

(8) "Hazardous refuse." Means any chemical, compounds, mixture, substance or article which may constitute a hazard to health or may cause damage to property by reason of being explosive, flammable, poisonous, corrosive, unstable, irritating, radioactive or otherwise harmful.

(9) "Industrial waste." Shall mean all wastes peculiar to industrial, manufacturing or processing plants.

(10) "Litter." All "garbage," "refuse" and "trash" and all other waste material which, if thrown, deposited, or left unattended as herein prohibited, tends to create a danger to public health, safety and welfare.

(11) "Non-residential establishments." Any establishment except those defined under "residential establishments." Non-residential establishments shall be divided into the following categories:

(a) Commercial which shall include restaurants, motels, hotels, private cemeteries, retail and wholesale business establishments and offices where a product is not manufactured.

(b) Industrial which shall include all manufacturing and fabricating businesses.

(c) Governmental which shall include local, state and federal governmental agencies.

(d) Educational facilities which shall include all public schools and universities.

(e) Religious which shall include all churches, synagogues, church-operated or affiliated agencies.

(f) Fraternal, social and professional clubs and organizations which shall include lodges, social clubs, labor unions.

(g) Professional which shall include all hospitals, doctors' offices and clinics, lawyers' offices, animal hospitals and clinics.

(h) Private educational facilities which shall include all nonpublic schools, colleges and universities.

(i) Multiple-family structures which shall include any apartment or condominium complex with four (4) or more units, any mobile home park with four (4) or more units, and public housing.

(12) "Park." A park, reservation, playground, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

(13) "Private premises." Any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwellings, house, building, or other structure.

(14) "Producer." Either the person responsible for the "ashes," "garbage," "refuse," "trash," "industrial waste," and any other waste material or

the occupant of the place or building in which such is produced or in which the person responsible for such has a place of business or residence.

(15) "Public place." Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(16) "Refuse." All putrescible and nonputrescible solid wastes (except body waste) including "garbage," "trash," "industrial waste," "ashes," street cleanings, dead animals, and abandoned automobiles.

(17) "Residential establishments." Shall include single- or multiple-family dwelling units up to and including apartment complexes, condominiums or trailer parks of three (3) units or less.

(18) "Trash." Nonputrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, boxes, cloth, wrappings, crates, grass clippings, "cuttings," leaves, glass and similar material. It shall not include bulky refuse meaning stoves, refrigerators, water tanks, washing machines, furniture, automotive parts, tires, bedding, furnaces or similar bulky material having weight greater than fifty (50) pounds and/or a volume greater than thirty (30) gallons. Trash shall be divided into three (3) categories:

(a) Household trash. Waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than "garbage," which is usually attendant to housekeeping.

(b) Yard trash. "Cuttings," leaves, grass clippings, etc. resulting from normal maintenance and care of landscaped, manicured grounds and lawns but does not include cuttings and leaves from that portion of grounds that have been left in its natural state without annual maintenance.

(c) Business trash shall mean any waste accumulation of dust, paper, cardboard, excelsior, rags or other accumulations other than "garbage," "household trash" or "industrial waste" which are usually attendant to the operation of stores, offices and similar businesses.

(19) "Vacant property." Shall mean all parcels of land without any permanent dwelling or business structure that have remained vacant for a period of two (2) years without routine maintenance to the yard and grounds. This shall also include portions of grounds and/or yards left in its natural state. (2000 Code, § 17-102, as amended by Ord. #51-23, Sept. 2015)

17-103. Rules and regulations to implement chapter. The city manager may make such necessary or desirable rules and regulations as are not inconsistent with the provisions of this chapter in order to aid in its administration and in order to insure compliance and enforcement. (2000 Code, § 17-103)

17-104. Persons engaged in business of landscaping or trimming, repairing, etc., of trees and shrubbery. No person shall perform any service

of economic gain wherein trees or shrubbery are cut, trimmed, removed or altered, and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping as a result of such work or service without being equipped with a truck or other vehicle capable of removing said brush, wood, vines, debris or other refuse which shall be so removed by the person causing or creating its accumulation. (2000 Code, § 17-104)

17-105. Manner of loading, moving and carrying materials, garbage, etc., and tracking of foreign material. The owner, lessee or operator of every vehicle engaged in hauling any sand, gravel, dirt, stone, rock, brick, coal, limestone, limestone dust, asphalt, "garbage," "trash" or any material which may as a result of such vehicle's movement, be likely to blow, fall or be scattered on or along city streets and alleys shall maintain such a vehicle in a secure condition and shall direct and supervise the loading of said vehicle in such a manner as to prevent any portion of such materials, products or substances from falling, blowing or being scattered on city streets or alleys. Nor shall garbage or other materials offensive to the sight or smell be removed or carried on or along the streets and alleys of the city unless it be in trucks having watertight beds or boxes with proper cover. (2000 Code, § 17-105)

17-106. Miscellaneous prohibited dispositions of refuse. No person shall place any refuse in any street, alley or other public place, or upon any private property whether owned by such person or not, within the city except it be in proper containers for collection or under express approval granted by the street and sanitation manager. Nor shall any person throw or deposit any refuse in any stream or other body of water.

Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of refuse within thirty (30) days after the effective date of this chapter shall be deemed a violation of this chapter.

No person shall cast, place, sweep or deposit anywhere within the city any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, or other public place, or into any occupied premises within the city. (Ord. #51-23, Sept. 2015)

17-107. Exclusive collection. It shall be unlawful for any person other than the city or its authorized contractor to engage in the business of collecting, removing and disposing of refuse in the city except those private collectors specifically authorized by the city. The city shall establish rules and regulations to be adopted by the city council to govern the activities of such private collectors. This does not prohibit establishments from collecting and hauling their own refuse so long as such refuse is stored, collected and hauled as prescribed in this chapter. (2000 Code, § 17-107)

17-108. Premises to be kept clean and containers required. All persons within the city are required to keep their premises in a clean and sanitary condition, free from the accumulation of "refuse" except when stored as provided in this chapter.

It shall be the duty of every person in possession, charge or control of any premises of a "residential establishment," where "garbage" or "trash" is created or accumulated to keep or cause to be kept at all times containers, specified herein, for the deposit of "garbage" and "trash" generated on the premises. (2000 Code, § 17-108)

17-109. Authority of city to confiscate, etc., unsatisfactory containers. Containers used for the deposit of "garbage," "business trash" and/or "household trash" shall be in such good condition that collection thereof shall not injure the person collecting the contents nor be unsuitable for the healthful and sanitary storage of "refuse" substances. The city is hereby authorized to confiscate or to remove unsatisfactory containers from the premises of "residential establishments" and "nonresidential establishments" that do not comply with the requirements of this chapter; provided, however, that the owners, or their agents or lessees of such containers shall be duly notified of such impending action by five (5) days' notice in writing delivered to the premises on which the unsatisfactory container is located. (Ord. #51-23, Sept. 2015)

17-110. Proximity of other personal effects. "Garbage" and "trash" shall not be stored in close proximity to other personal effects which are not desired to be collected, but shall be reasonably separated in order that the collector can clearly distinguish between what is to be collected and what is not to be collected. Personal effects stored or placed within three feet (3') of a container or pile of "trash" shall be prima facie presumed to be "garbage" or "trash." (2000 Code, § 17-110)

17-111. Residential containers, storage and requirements. "Authorized residential containers" shall be as defined in § 17-102 herein. Lids or covers of such containers shall be kept tightly closed and water tight at all times other than when "refuse" is being deposited therein or removed therefrom. "Refuse" may be stored for collection in the following manner: "Ashes," "garbage," and "household trash" shall be stored in "authorized residential containers" except "household trash" which may also be separated from "garbage" and stored as "trash."

(1) Small items of "trash" including "household trash" and grass clippings, small amounts of leaves, and vines shall be stored in disposable airtight plastic bags, on an occasional basis only, with no container exceeding fifty (50) pounds in weight when full. The street and sanitation manager may require the purchase of an additional "authorized residential container" when

a resident consistantly has more refuse and trash than can be accommodated by the authorized residential container.

(2) Leaves may be raked into piles and windrows at the curbside for collection, beginning in the fall, on a specific date established by the director of the public works department through January. Prior to and after these dates leaves shall be stored in disposable containers such as plastic bags.

(3) "Cuttings" of brush, limbs and shrubbery shall be stored in neat piles with thorny vegetation placed in separate piles from other tree and shrubbery trimmings. Each tree and shrubbery branch and limbs shall be cut in lengths of not more than five feet (5') and stumps, branches and limbs shall weigh no more than fifty (50) pounds each.

(4) Items of trash too large to place in a container but weighing no more than fifty (50) pounds and/or having a volume of no more than thirty (30) gallons shall be stored in neat piles for collection. (2000 Code, § 17-111, as amended by Ord. #51-23, Sept. 2015)

17-112. Non-residential establishment containers, storage and requirements. "Refuse" produced by keepers and/or owners of "non-residential establishments" shall be stored for collection in the following manner:

(1) A "bulk container" as defined in § 17-102(4) is required for all "non-residential establishments" as defined in § 17-102(11) which produce "garbage" and/or "trash." The size and number of bulk containers purchased by individuals or organizations will be designated by the street and sanitation manager. Those "non-residential establishments" using "authorized residential containers" prior to the adoption of this chapter are exempted from using a "bulk container" so long as the accumulation of their "garbage" and "trash" between scheduled pickups can be stored in six (6) or less residential containers. A need for more than six (6) containers will require that establishment to acquire an acceptable "bulk container."

(2) The minimum facilities for any "bulk container(s)" will be a paved pad with the size determined by the street and sanitation manager.

(3) The street and sanitation manager may require the replacement of "bulk containers" if the existing "bulk container" is unsafe, is not watertight, or otherwise creates a health or safety hazard.

(4) "Cuttings" of brush, limbs, shrubbery shall be stored in neat piles with thorny vegetation placed in separate piles from other tree and shrubbery trimmings. Each tree and shrubbery branch and limbs shall be cut in lengths of not more than five feet (5') and stumps, branches and limbs shall weigh no more than fifty (50) pounds each. (Ord. #51-23, Sept. 2015, as amended by Ord. #58-18, Sept. 2022 ***Ch3_02-08-24***)

17-113. Residential collection practices: garbage collection, frequency, placement, etc. (1) "Ashes," "garbage," and "household trash" shall be collected from each "residential establishment" at least once a week as scheduled by the director of the public works department.

(2) Residential collection shall be made from curbside and approved city alleys. Where there is no alley or curbside, containers shall be located as indicated by the director of the department of public works. Alley collection service may be denied to "residential establishments" by the director of the department of public works if such alley is not easily accessible to the city garbage truck.

(3) If two (2) or more "residential establishments" are located on a private road and not within a reasonable distance of a public street or alley, as determined by the street and sanitation manager, collection of refuse stored in "authorized residential containers" may be made along the private road only if the owner(s) provide written approval for city collection trucks to travel on the private road. The city shall not be liable for any damage done to the private road as a result of normal use of ingress and egress.

(4) Domestic producers of "ashes," "garbage" and "household trash" shall provide sufficient container space to hold one (1) week's accumulation of refuse not to exceed six (6) "authorized residential containers."

(5) Container shall be placed at the appropriate location as described in subsection (2) above by no later than 7:00 A.M. on the day of collection and removed from curbside on the same day, after collection has occurred. Holiday collection schedules may require placement of containers at curbside on the evening prior to collection. (2000 Code, § 17-113, as amended by Ord. #51-23, Sept. 2015)

17-114. <u>Residential collection practices: trash collection frequency, placement and producers responsibility</u>. (1) "Trash" shall be collected from each "residential establishment" at least once a month on a schedule developed by the director of the department of public works.

(2) "Trash" collection shall be made from curbside only. Where there is no curb, containers and/or refuse shall be located as indicated by the street and sanitation manager.

(3) Leaves raked into piles and windrows for collection during the leaf season as defined in § 17-111(3) shall be collected at curbside only. The placing of leaves in public streets, gutters or over storm drains is expressly prohibited. Collection of leaves, during the leaf season, shall be provided to each "residential establishment" at least once every month and more frequently if possible. The street and sanitation manager is authorized and directed to prepare schedules for leaf collection and to notify domestic producers of such schedules.

(4) Trash or any other refuse not stored and placed as provided in §§ 17-108--17-114 shall be removed from the premises by producer at his expense. The following items of refuse shall also be removed by the owner and/or producer at their expense:

(a) Building material as defined in § 17-102 whether generated by the contractor or the owner or any other persons.

(b) Garden refuse as defined in § 17-102.

(c) Refuse including brush, leaves, stumps, vines or any material resulting from the cleaning or clearing of "vacant property" as defined in § 17-102 whether such cleaning or clearing was done by a contractor or by the owner or any other person.

(d) Any refuse so resulting from the normal and routine maintenance of yard, grounds and residences such as refuse removed from the property after the owner was ordered to remove such refuse by the city health inspector or any other authorized city official.

(e) Automobile, truck, tractor and other vehicle tires and any other motor vehicle parts shall be disposed of by owner or producer.

(f) Any "trash" pushed or pulled into piles by mechanical means shall be disposed of by owner or producer.

(g) Any "trash" resulting from work performed by contractors or any other person for economic gain, whether such gain is in the form of cash or barter, shall be removed by the owner, occupant or producer.

(h) Any other "trash" or "refuse," except certain household items and appliances weighing in excess of fifty (50) pounds or having a volume or more than thirty (30) gallons shall be removed by the producer.

(5) Cuttings of brush, limbs and shrubbery deposited by the property owner or resident for collection by the city and determined to be two (2) tons or more by volume and over one (1) two (2) ton brush trailer load by volume, will require a special brush pickup to be scheduled after payment of the prevailing landfill rate charged to the city and there shall be a charge of seventy five dollars ($75.00) per trailer load on all volumes of brush exceeding the two (2) ton by volume brush trailer. Partial loads shall be billed in proportion to the brush picked up. Man-made materials cannot be co-mingled with brush.

Upon failure of the property owner or the resident to arrange for special brush picked up or the removal of such brush after thirty (30) days, the city shall notify the property owner that a fee for the removal will be placed on the customer's water bill for all brush volumes determined to exceed the two (2) ton by volume limit. The failure to pay such fee will result in the termination of water services after notice. (2000 Code, § 17-114, as amended by Ord. #51-23, Sept. 2015, and Ord. #58-18, Sept. 2022 ***Ch3_02-08-24***)

17-115. <u>Non-residential collection practices: garbage and "trash" collection, frequency, placement, etc</u>. (1) Collection of "refuse" for "non-residential establishments" shall be limited to "garbage," "household trash," "cuttings" and "business trash" stored in authorized containers. Bulky items of trash and "yard trash" that cannot be placed in authorized containers shall be removed by the owner or producer.

(2) A solid waste disposal fee for "bulk containers" of thirty dollars ($30.00) per container, per collection, shall be collected on a monthly basis. The solid waste disposal fee is subject to change on an annual basis proportionate to the increase in the solid waste disposal fees imposed by the landfill. Any solid

waste disposal fee not paid on or before the due date shall incur a ten percent (10%) penalty.

(3) Collection service for "bulk container" accounts whose solid waste disposal fee is not paid within twenty (20) days after the due date shall be discontinued for failure to pay the fee when due. The water/sewer service for any water/sewer customer responsible for payment of a bulk container solid waste fee shall be subject to termination of service if the bulk container fee is not paid; provided the city gives written notice to the delinquent customer ten (10) days prior to termination of water/sewer services. Municipal billing for each "bulk container" account shall be consolidated with the commercial user's water/sewer billing account. Each commercial user shall be notified that it has the right to contact a designated city staff employee with regard to any billing the customer believes is inaccurate or erroneous prior to water/sewer service being discontinued under this charter.

(4) It shall be incumbent upon tenants, lessees, occupants or owners of "non-residential establishments" to provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse. The city shall not be liable for damage done to driveways; parking lots or other properties, resulting from normal use for ingress and egress to collect refuse, unless caused by negligence on the part of the city or its employees. Any required improvement of the site shall be the responsibility of and at the cost of the property owner, tenant, lessee, or occupant. (2000 Code, § 17-115, as amended by Ord. #51-23, Sept. 2015, and amended by Ord. #55-19, June 2019 ***Ch2_03-11-21***, Ord. #58-18, Sept. 2022 ***Ch3_02-08-24***, and Ord. #59-5, Jan 2023 ***Ch3_02-08-24***)

17-116. <u>Industrial waste</u>. The collection and disposal of "industrial waste" shall be the responsibility of the owner, lessee, occupant or producer. (2000 Code, § 17-116)

17-117. <u>Hazardous refuse</u>. No "hazardous refuse" shall be placed in any receptacle, container or unit used for refuse collection by the city. The collection and disposal of such refuse shall be the responsibility of the owner, lessee, occupant or producer. (2000 Code, § 17-117)

17-118. <u>Cardboard boxes and cartons</u>. Prior to being deposited as refuse for collection in approved containers, all cardboard boxes, cartons and crates shall be completely collapsed. (2000 Code, § 17-118)

17-119. <u>Bulk containers located in downtown area</u>. (1) "Bulk containers" in the downtown area shall be used by downtown merchants and city departments only.

(2) "Bulk containers" in the downtown area shall be labeled "DOWNTOWN MERCHANT USE ONLY" or words to that effect.

(3) Additionally "bulk containers" in the downtown area shall be labeled as follows:

(a) "NO CORRUGATED CARDBOARD ALLOWED" or words to that effect. In these "bulk containers," no corrugated cardboard shall be permitted.

(b) "CARDBOARD BOXES ONLY" or words to that effect. In these "bulk containers" only cardboard boxes shall be permitted.

(4) Violation of subsection (1) of this section shall be punishable by a maximum fifty dollar ($50.00) fine.

(5) Violation of subsection (3)(a) of this section shall be punishable by a maximum twenty-five dollar ($25.00) fine. (2000 Code, § 17-119)

17-120. Fees for approved nonresidential customers. A fee shall be charged to all nonresidential users of "authorized residential containers" for the purchase, replacement or addition of an authorized residential container. This fee shall be the cost to the city for such container plus five percent (5%) and shall be paid at the time the container is acquired.

Residential containers will be replaced as deemed unsuitable for the healthful and sanitary storage of "refuse" substances by the street and sanitation manager. (Ord. #51-23, Sept. 2015)

17-121. Disposition of bulk refuse. (1) Effective October 3, 2012, the City of Elizabethton will resume the pickup within the corporate limits of the City of Elizabethton of bulk refuse such as stoves, refrigerators, water tanks, washing machines, furniture, bedding (mattresses/bedsprings), furnaces or other similar bulky material except as set forth in subsection (2) below. Bulk refuse shall be placed at the street or road curbside for pickup.

(2) The City of Elizabethton, however, will not pick up automobile or truck tires, or motor vehicle parts, televisions, computer monitors or building materials as bulk refuse under this section.

(3) The City of Elizabethton will not pick up bulk refuse as set forth herein at non-residential establishments.

(4) No individuals from outside the City of Elizabethton, Tennessee, shall bring bulk refuse into the City of Elizabethton and place it at curbside or street side for the City of Elizabethton to pick up.

(5) It shall be a violation of this Elizabethton Municipal Code to bring bulk refuse into the corporate limits of the City of Elizabethton and it be dropped off in an attempt to have the City of Elizabethton dispose of this bulk refuse. Any individual being cited into the City of Elizabethton Municipal Court for this code violation and being found guilty shall be fined fifty dollars ($50.00) and assessed the appropriate court costs for a violation of the Elizabethton City Code.

(6) Bulk refuse placed by residents for pickup by the City of Elizabethton and determined to be two (2) tons or more by volume and over one

(1) two (2) tone trailer load by volume will require a special bulk refuse pick up to be scheduled and shall be assessed a fee, which shall be the prevailing landfill rate charged to the city for the additional tonnage. (Ord. #48-24, Nov. 2012)

17-122. <u>Solid waste user fee</u>. (1) The solid waste user fee for the collection, removal and disposal of refuse by the City of Elizabethton shall be included as a separate item each month on the bills rendered by the city water and sewer departments for water service to each City of Elizabethton residential or commercial unit receiving water or sewer services except those industrial, commercial, and residential entities which currently utilize bulk container service which is currently billed separately. The solid waste user fee shall be rendered on the first water bill sent ten (10) days after the passage of the ordinance comprising this section. The solid waste user fee shall be set at fifteen dollars ($15.00) each month. The solid waste user fee shall be paid monthly at the same time water bills are paid, except for those bulk container accounts that are currently billed separately by the city.

(2) All mobile home parks/trailer parks, apartment complexes, and apartments that are currently being provided water or sewer service by the City of Elizabethton Water Resources Department through a master meter shall pay a solid waste user fee for each trailer/mobile home or apartment serviced through the City of Elizabethton Water Resources Department master meter. For example, a trailer/mobile home park with thirty (30) units being serviced by one (1) water resources department master meter shall be assessed thirty (30) solid waste user fees. (Ord. #48-9, July 2012, as replaced by Ord. #55-19, June 2019 ***Ch2_03-11-21***, and Ord. #59-5, Jan. 2023 ***Ch3_02-08-24***)

17-123. <u>Dumpster rental fees</u>. The rental fee for eight (8) yard dumpsters shall be set at a monthly rental fee of forty dollars ($40.00) per dumpster per month. (as added by Ord. #55-19, June 2019 ***Ch2_03-11-21***)

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WATER.
2. SEWER USE.
3. ENFORCEMENT RESPONSE PLAN.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
5. STORMWATER DISCHARGE CONTROL.
6. STORMWATER AND WATER QUALITY ISSUES.

CHAPTER 1

WATER[2]

SECTION
18-101. Definitions.
18-102. Meter rates--residential, multi-dwelling, industrial, commercial and wholesale.
18-103. Sprinkler systems and private fire hydrants.
18-104. Tap fees and deposits.
18-105. Water line maintenance.
18-106. Unauthorized water service connection or tampering.
18-107. Adjustments to water bills due to leaks.
18-108. 2020 COVID-19 authority and response.

18-101. Definitions. (1) "Commercial." Small businesses such as service stations, office buildings, restaurants, laundromats, warehouses, and other non-industrial businesses.

(2) "Incorporated water system." The City of Elizabethton's water system which services customers located in areas within the incorporated limits of any other municipality, city, town, or other area, incorporated under the laws of the State of Tennessee, after November 30, 1997, and which are outside the incorporated limits of the City of Elizabethton.

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[1]Municipal code references
Building, utility and residential codes: title 12.
Refuse disposal: title 17.

[2]Municipal code reference
Plumbing code: title 12, chapter 2.

(3) "Industry" and "industrial" shall refer to any mill or factory in any branch of trade, production, or manufacturing, or all of these collectively, as approved by the city manager.

(4) "Multi-dwelling." A dwelling unit or units in a complex or area wherein more than one (1) individual or one (1) family resides, with more than one (1) unit being supplied by a single meter. This definition encompasses, among other things, apartment complexes, group housing, planned unit development, bed and breakfast boarding or rooming, mobile home complexes or parks, and any unit or area which houses more than one (1) individual or family.

(5) "Municipal water system." The City of Elizabethton's water system, which serves customers, located in areas within the incorporated limits of the City of Elizabethton.

(6) "Regional water system." The City of Elizabethton's water system which services customers located in areas outside of the incorporated limits of the City of Elizabethton and/or located in areas outside of the incorporated limits of any other municipality, city, town, or other incorporated area under the laws of the State of Tennessee.

(7) "Residential." A single-family dwelling unit. (2000 Code, § 18-101)

18-102. Meter rates--residential, multi-dwelling, industrial, commercial and wholesale. The City of Elizabethton is the sole provider of metered water services in the area serviced by the Elizabethton Water Utility District. Third party water metering service is not permitted. The following rates shall be charged to customers.

(1) Rates for customers shall be:

(a) Residential, commercial, industrial and wholesale customers.

July 1, 2015 through June 30, 2016

Service	**Municipal**	**Regional**
Minimum 1,000 gals. or less	$17.45/m	$24.34/m
Above 1,000 to 500,000 gals.	$4.17/m	$7.35/m
Above 500,000 to 1,000,000 gals.	$2.67/m	$4.61/m
Above 1,000,000 gals.	$2.57/m	$4.32/m

July 1, 2016 through June 30, 2017

Service	**Municipal**	**Regional**
Minimum 1,000 gals. or less	$18.95/m	$25.84/m
Above 1,000 to 500,000 gals.	$4.34/m	$7.65/m
Above 500,000 to 1,000,000 gals.	$2.78/m	$4.79/m
Above 1,000,000 gals.	$2.67/m	$4.49/m

July 1, 2017 through June 30, 2018

Service	**Municipal**	**Regional**
Minimum 1,000 gals. or less	$18.95/m	$25.84/m
Above 1,000 to 500,000 gals.	$4.51/m	$7.95/m
Above 500,000 to 1,000,000 gals.	$2.89/m	$4.98/m
Above 1,000,000 gals.	$2.78/m	$4.67/m

July 1, 2018 through June 30, 2019

Service	**Municipal**	**Regional**
Minimum 1,000 gals. or less	$18.95/m	$25.84/m
Above 1,000 to 500,000 gals.	$4.69/m	$8.27/m
Above 500,000 to 1,000,000 gals.	$3.01/m	$5.18/m
Above 1,000,000 gals.	$2.89/m	$4.85/m

July 1, 2019 through June 30, 2020

Service	**Municipal**	**Regional**
Minimum 1,000 gals. or less	$18.95/m	$25.84/m
Above 1,000 to 500,000 gals.	$4.88/m	$8.60/m
Above 500,000 to 1,000,000 gals.	$3.13/m	$5.39/m
Above 1,000,000 gals.	$3.01/m	$5.05/m

July 1, 2020 through June 30, 2021

Service	**Municipal**	**Regional**
Minimum 1,000 gals. or less	$18.95/m	$25.84/m
Above 1,000 to 500,000 gals.	$5.07/m	$8.95/m
Above 500,000 to 1,000,000 gals.	$3.25/m	$5.61/m
Above 1,000,000 gals.	$3.13/m	$5.25/m

*m=1,000 gallons

(b) Multi-dwelling meter rates. (i) Multi-dwelling units are required to install separate water meters for each dwelling unit. Examples include, but are not limited to, apartments, trailer parks, condominiums, shopping centers, malls and strip malls.

(ii) Exception to the multi-dwelling requirement: Examples are not limited to hospitals, hotels, motels, nursing home facilities, dormitories, hostels, state and government housing, prisons, and camping facilities where one (1) owner is paying for the entire water used and tenants are not directly charged for water used; where state or government restrictions apply, where it is not feasible to install individual meters, where tenants stay less than twelve (12) days a month.

Exceptions may be granted by the finance director to install a single meter to supply the entire facility. It is strictly at the

discretion of the City of Elizabethton Finance Director to determine if an exception is warranted.

If an exception is made one (1) of the following methods may be used to calculate the water rates charged to multi-dwelling unit customers:

(A) Divide the total complex monthly water consumption by the number of units in the complex to determine the average monthly dwelling consumption.

(B) Calculate the revenues earned for the average monthly unit consumption with the meter rate schedule set forth in § 18-102(1)(a).

(C) Multiply the revenues calculated in the step above by the number of units in the complex to determine the monthly revenues for the complex by this method or calculate the revenues based on the consumption of water for the installed meter.

(c) New construction--required meter installation. All new construction of multi-dwelling units shall be required to install a separate meter for each unit.

(d) Wholesale rates. The following wholesale rates shall be applied to all utility districts created pursuant to "The Utility District Law of 1937," Tennessee Code Annotated § 7-82-101, et seq. And the City of Johnson City, Tennessee, served by the City of Elizabethton, Tennessee.

Service	Rate
1,000 gallons to above 1,000 gallons	$2.65/m

*m=1,000 gallons

(ii) All mobile home parks/trailer parks, apartment complexes and apartments that are currently being provided water service by the City of Elizabethton, Elizabethton Water Department, through a master meter shall pay a water system capital improvement fee for each trailer/mobile home or apartment serviced or provided water service through the City of Elizabethton, Elizabethton Water Department Master Meter. For example, a trailer/mobile home park with thirty (30) units being serviced by one (1) water department master meter shall be assessed thirty (30) water system improvement fees.

(2) Billing. Water and sewer bills are combined on one bill per account and are mailed to the customer on a monthly basis. Failure to receive a bill does not relieve the customer's responsibility for payment. A replacement bill may be obtained at City Hall, 136 S. Sycamore Street. Failure to timely pay a bill will result in disruption of service and payment of a reconnect fee to re-establish service.

(3) Water bill vacation. If a customer is planning to be away from home an extended period of time when water will not be used at the service location, then the customer can choose to place the service on vacation by either requesting vacation status in writing or appearing in person at the utility billing services office at city hall. Requesting vacation status entitles the customer a choice of paying the minimum water bill or disconnecting the service and paying a reconnection fee when the vacation period ends. If the disconnection option is selected, a re-connection date can be prearranged and the re-connection fee will be billed on the next bill after vacation.

(4) Minimum monthly bills.

MINIMUM MONTHLY BILL JULY 1, 2023-June 30, 2024

Service	Municipal	Regional	Utilities
5/8" x 3/4"	$ 20.45	$ 27.34	$ 462.00
3/4"	$ 20.45	$ 27.34	$ 462.00
1"	$ 26.12	$ 34.92	$ 462.00
1 1/4"	$ 32.05	$ 40.73	$ 462.00
1 1/2"	$ 45.11	$ 58.19	$ 462.00
2"	$ 58.17	$ 81.47	$ 462.00
3"	$ 109.21	$ 151.30	$ 462.00
4"	$ 249.28	$ 290.96	$ 462.00
6"	$ 433.28	$ 494.64	$ 462.00
8"	$ 652.89	$ 814.70	$ 880.00

MINIMUM MONTHLY BILL JULY 1, 2024-June 30, 2025

Service	Municipal	Regional	Utilities
5/8" x 3/4"	$ 21.95	$ 28.84	$ 462.00
3/4"	$ 21.95	$ 28.84	$ 462.00
1"	$ 28.04	$ 36.84	$ 462.00
1 1/4"	$ 34.40	$ 42.96	$ 462.00
1 1/2"	$ 48.42	$ 61.38	$ 462.00
2"	$ 62.44	$ 85.94	$ 462.00
3"	$ 117.22	$ 159.60	$ 462.00
4"	$ 267.56	$ 306.92	$ 462.00
6"	$ 465.06	$ 521.78	$ 462.00
8"	$ 700.78	$ 859.40	$ 880.00

(5) Penalty for late payment. If water bills are not paid on or before the tenth day following the date of billing, a ten percent (10%) late charge and penalty will be added thereto. If payment is not received by the cut-off date shown on the bill, service may be discontinued and a reconnection fee assessed

for reinstatement of service. No additional notification (other than shown on the billing) is required prior to service disconnection for non-payment.

(6) Miscellaneous and customer responsibilities. It is the customer's responsibility to make sure all faucets inside and outside the point of service are in the "OFF" position when water service is initially established or reestablished after cut-off, to prevent water damage or excessive loss of water. The city assumes no responsibility for water damage or metered charges in instances of customer negligence in turning off faucets or other water equipment or appliances. The following are fees associated with initial water service or reinstatement after cut-off, blocking meters and other miscellaneous services, to-wit:

(a) Service installation fee (customer's option).

Service	**Municipal**	**Regional**	**Incorporated**
Same day	$50.00	$60.00	$70.00
Worked into normal work schedule	$15.00	$25.00	$30.00

The service installation fee applies to new services as well as when current customers transfer their water deposit from one location to another.

(b) Turn-on (after cut-off)--customer's option

(i) The following fees shall be charged for the first time a customer requires restoration of service:

	Municipal	**Regional**	**Incorporated**
Same day	$35.00	$45.00	$70.00
Worked into normal work schedule	$15.00	$25.00	$30.00

(ii) The following fees shall be charged for the second and any subsequent time a customer requires restoration of service within a twelve month period from the last restoration charge:

	Municipal	**Regional**	**Incorporated**
Same day	$35.00	$45.00	$70.00
Worked into normal work schedule	$25.00	$40.00	$60.00

(c) Rereading meter, if previous reading is not in error

Service	**Municipal**	**Regional**	**Incorporated**
Re-read meter	$15.00	$25.00	$35.00

(d) Relocation of meter at customer's request shall be the actual cost not to exceed the cost of a new tap fee.

(e) Inhibiting access to meter by placing junk, refuse, trash, debris or other items over the meter or by blocking access to meter by fencing or other means such as parking a vehicle over the meter to prevent reading access.

(i)	First time	Warning tag	Estimated bill
(ii)	Second time	$50.00	Fee added to estimated bill
(iii)	Third time	$100.00	Fee added to estimated bill

(iv)	Fourth time	Obstruction removed at customer's expense	Plus $100.00 fee assessed
(v)	Fifth time	Meter removed	New meter (tap) fee required to reinstate customer's service

(f) Inhibiting access to meter--preventing meter cut-off for non-payment.

(i)	First time	$50.00 fee assessed	ESTIMATED BILL, TAG LEFT
(ii)	Second time within 12 months	Obstruction removed at customer's expense	$100.00 fee assessed and water turned off
(iii)	Third time within 12 months	Obstruction removed at customer's expense	Meter removed, new meter and tap fee required to reinstate customer's service

(g) Cut lock fee. When service is discontinued or cut off, the meter reader turns off the meter and locks it to prevent unauthorized use. It is a violation of Tennessee Code Annotated § 39-14-101 for anyone other than city authorized personnel to remove the lock. If any meter lock is cut off the meter, the following cut lock fees will apply.

Service	**Municipal**	**Regional**	**Incorporated**
Replace cut lock (first time)	$50.00	$50.00	$50.00
Replace cut lock (second or more)	$100.00	$100.00	$100.00

Criminal prosecution may also be pursued in accordance with Tennessee Code Annotated § 39-14-101.

(h) Turn-off due to sewage or any other contamination around water meter. If it is determined that sewage or any other contamination is seeping into the water meter box, water service will immediately be turned off until the property owner has corrected the problem. After the problem has been corrected, the meter box will be inspected by city water department personnel to verify correction has been completed satisfactorily. A turn-on fee will then be assessed in accordance with (b) (first time) above.

(i) Meter tampering charges. Instances occur when customers damage the meter and other parts in the meter box in order to obtain the unauthorized use of water services. This may occur when service is disconnected or cut off. The meter reader turns off the meter and, when possible, locks it to prevent the unauthorized use of water services but unauthorized service may extend beyond this definition. It is a violation of Tennessee Code Annotated, § 39-14-101 for anyone other than city authorized personnel to remove and/or manipulate any parts located in the meter box to steal water services. When it has been determined that an Elizabethton water meter has been tampered with, the following meter tampering charges will apply:

Service	**Municipal**	**Regional**	**Incorporated**
Replacing damaged meter and/or parts	$200.00	$200.00	$200.00

(2000 Code, § 18-102, as amended by Ord. #45-12, Aug. 2009, Ord. #46-12, June 2010, Ord. #47-9, July 2011, Ord. #48-8, July 2012, Ord. #50-9, June 2014, Ord. #51-14, July 2015, and Ord. #59-15, June 2023 ***Ch3_02-08-2024***)

18-103. Sprinkler systems and private fire hydrants. (1) Sprinkler systems shall be installed at the expense of the user and charges for all non-metered service connections shall be made monthly at the following rates:

No. sprinkler heads	Municipal	Regional	Incorporated
Minimum rates	$4.50	$6.75	$10.15
1-150	$4.50	$6.75	$10.15
151-250	$5.15	$7.85	$11.80
251-350	$6.25	$9.35	$14.05
351-550	$8.00	$12.00	$18.00
551-750	$9.75	$14.60	$21.95
751-950	$11.50	$17.25	$25.85
951-1,150	$13.25	$19.85	$29.80
1,151-1,350	$15.00	$22.50	$33.75
1,351-1,550	$16.75	$25.10	$37.65
*All over 1,500/100	$1.00/100	$1.50/100	$2.25/100

*rounded to the nearest 100 heads.

(2) Sprinkler systems. Sprinkler systems installed by the owner on metered service lines shall not have any additional monthly service charge.

(3) Fire hydrants. Fire hydrants installed on metered lines shall not be charged any additional monthly fees.

(4) Fire hydrants. Fire hydrants installed on non-metered lines shall be charged fees in accordance with the following schedule.

Municipal	**Regional**	**Incorporated**
$5.00/month	$7.50/month	$11.25/month

Fire hydrants installed by individuals on private property shall be used solely for fire purposes and shall be billed for each hydrant installed at the above rates.

(5) Abuse of un-metered fire hydrants and sprinkler systems. If any individual or corporation is found using sprinkler systems or fire hydrants for any purpose other than for fires, said individual or corporation shall pay a fee of five hundred dollars ($500.00) (minimum estimate of previously used un-metered water) and be metered at owner's expense. The owner shall thereafter be billed regularly according to the appropriate water rate schedule set forth in § 18-102. (2000 Code, § 18-103)

18-104. Tap fees and deposits. Tap fees and deposits for water connections shall be as hereinafter set forth and the water department shall make no connections for water without having first collected the fees as fixed in this section, to-wit:

(1)

Tap and meter size	Municipal	Regional	Incorporated
5/8" x 3/4"	$650.00	$1,200.00	$1,500.00
3/4"	$750.00	$1,300.00	$1,600.00
1"	$850.00	$1,400.00	$1,800.00
1-1/2"	$950.00	$1,500.00	$2,000.00
2"	$1,400.00	$1,900.00	$2,200.00
3"	$2,600.00	$3,600.00	$5,000.00
4"	$3,000.00	$4,500.00	$6,000.00
6"	$5,000.00	$7,200.00	$10,000.00
8"	$7,000.00	$9,600.00	$14,000.00
All others size cost, plus on labor, material, and overhead to property line.	15%	30%	40%

(a) Discontinued service on water taps not on public right-of-way. Anytime service is discontinued on a tap resulting in a deposit refund. If that water tap is not located on the public right-of-way, the tap will be relocated to the nearest practical location on public right-of-way prior to service being reinstated. Relocation of the tap will be at the utility fund expense. Relocation of the lateral line to the property serviced will be at the property owner's expense.

(b) Abandoned water taps. Water taps that have been previously used but have been abandoned due to the razing of the building structure or other reasons, may be used in connection with the new structure without a fee for tapping provided that the water tap is undamaged and requires only the replacement of the meter to provide service. Such existing taps shall be examined and tested by the public

works director or designee and must meet all requirements of this chapter. If the tap is damaged or destroyed, a replacement tap fee of fifty percent (50%) of the applicable prevailing tap fee will be charged; unless tap relocation to public right-of-way is required, in which case, provisions of § 18-104(1)(a) would apply.

(c) Dry tap fees. If an individual or contractor anticipates needing future water taps and desires to pay for them at the current prevailing fee, then the tap fee can be paid and will be honored when requested in the future. However, said request must be submitted in writing with the address for the future tap, for approval of the public works director or his designee. Taps will not be approved for areas where a water supply line with sufficient capacity is not readily available. For sales of this nature, a water tap certificate will be issued. The certificate must be presented for redemption when the tap is required and is good only for the address originally specified. Lost tap deposit certificates can not be honored.

(d) Commercial office buildings and shopping centers. Commercial office buildings and shopping centers require an individual water tap for each tenant.

(2) Fire line tap charges.

Hydrant Line Size	Municipal	Regional	Incorporated
6"	$1,500.00	$2,250.00	$2,815.00
8"	$1,800.00	$2,700.00	$3,375.00
10"	$2,000.00	$3,000.00	$3,750.00
12"	$2,500.00	$3,750.00	$4,690.00

Open cuts or bores under streets will be billed cost of labor, material and overhead plus fifteen percent (15%) for construction to property line.

(3) (a) Meter deposits for owners.

Meter size	Municipal	Regional	Incorporated
5/8" x 3/4"	$40.00	$80.00	$100.00
3/4"	$50.00	$100.00	$120.00
1"	$60.00	$110.00	$130.00
1 1/2"	$90.00	$125.00	$150.00
2"	$150.00	$200.00	$250.00
3"	$300.00	$450.00	$525.00
4"	$500.00	$650.00	$750.00
6"	$900.00	$1,000.00	$1,200.00
8"	$1,600.00	$2,000.00	$2,500.00

(b) Meter deposits for non-owners.

Meter size	Municipal	Regional	Incorporated
5/8"x3/4"	$60.00	$120.00	$150.00
3/4"	$75.00	$150.00	$200.00
1"	$120.00	$165.00	$225.00

1 1/2"	$180.00	$300.00	$350.00
2"	$300.00	$500.00	$600.00
3"	$600.00	$700.00	$800.00
4"	$1,000.00	$1,200.00	$1,300.00
6"	$1,800.00	$2,200.00	$2,400.00
8"	$3,200.00	$3,600.00	$4,000.00

(c) Meter deposit refunds. Meter deposits will be refunded if a customer discontinues service. The final bill will be adjusted by the amount of the deposit and the balance will either be refunded to the customer or the customer will be billed the difference of the final bill minus the meter deposit if the deposit does not cover the final bill. If a customer maintains a good water bill payment history, the deposit will be refunded as credit on the bill after twenty (20) years.

(4) Utility districts. No tap or deposit fee shall be charged to other water utilities, however those utilities are subject to the minimum monthly billing. (2000 Code, § 18-104)

18-105. Water line maintenance. The municipal water system is responsible for the installation and replacement of water mains and meters. Residential meters shall be set within the established public rights-of-way. Commercial and multi-residential meters may only be placed beyond the public rights-of-way on private property in certain circumstances provided such placement has been approved in advance by the public works director and the city has been provided a formal utility easement to access such meters. In instances where water meters have been improperly installed outside of a public right-of-way, such meter(s) shall be relocated by the municipal water system within the public right-of-way. The city is responsible for providing a continuous required pressure twenty (20) psi to the meter. The water customer is responsible for the repair, maintenance, and replacement of lateral service lines connecting from the meter to the point of use. (2000 Code, § 18-105)

18-106. Unauthorized water service connection or tampering. No unauthorized person shall cover, uncover, make any connections with or opening in to use, alter, or destroy any public water main, tap, hydrant, or appurtenances thereof, without first obtaining a written permit from the public works director. Costs associated with such activity and corrective action required by the city as a result of such activity shall be assessed to the unauthorized user. In addition to direct costs incurred (labor, lab tests, and material), a twenty-five percent (25%) indirect cost fee will be assessed with the minimum assessment being fifty dollars ($50.00). Criminal prosecution may also be pursued in accordance with Tennessee Code Annotated § 39-14-101. (2000 Code, § 18-106)

18-107. <u>Adjustments to water bills due to leaks</u>. This section applies to verifiable leaks on the customer's side of the meter which have been corrected by the customer. The city reserves the right to refuse adjustments deemed frequent, unnecessary, questionable, or unreasonable based on facts available in each case.

(1) Line maintenance on the customer's side of the meter is totally an individual's responsibility. The city has no legal obligation to adjust billing for any such problem.

(2) If a verifiable leak has been discovered by the customer or by city employees which is on the customer's side of the meter and which has resulted in a significant increase in billing (twenty percent (20%) higher or more), then the customer may request an adjustment in billing of fifty percent (50%) of the amount over ordinary usage in accordance with the following provisions:

(a) The request is made by the customer in writing, including a description of the problem, dates the problem first occurred, what was done to correct the problem, when it was corrected, and copies of receipts or other evidence acceptable to city utility billing personnel showing the problem existed and has been corrected.

(b) If deemed necessary, additional information may be requested by utility billing personnel. After utility billing personnel have adequate documentation, they are authorized to adjust the billing in accordance with the following provisions:

(i) If the customer has one (1) year or more billing history, use the average gallons usage of the same quarter the previous year. If there is not one (1) year's usage history, use the average usage for the immediate prior three (3) months.

(ii) Subtract the average usage obtained in the above calculation from the current bill usage. Multiply the difference or overage by fifty percent (50%).

(iii) Add the fifty percent (50%) overage amount back to the average bill. Apply the current rate structure to the gallons computed to derive the adjusted bill amount.

(c) Only one (1) adjustment will be allowed for an account in a six (6) month period. That adjustment can include one (1) or two (2) consecutive months within the six (6) month period.

(d) If an additional leak occurs during the six (6) month time frame covered by the first leak adjustment; and the billing for the second leak is more than the first leak; and the customer has a good payment history with no cut-offs for non-payment of bill, then the adjustment may be applied to the larger of the two (2) bills, with the customer paying one hundred percent (100%) of the lesser bill and the adjustment for the larger bill.

(e) Adjustments do not apply in the following or similar situations:

(i) Seasonal usage.

(ii) Faucets accidentally or maliciously left on or turned on (inside or outside).

(iii) Cut-offs that are turned back on when faucets have been left on.

(iv) Customers filling pools. (2000 Code, § 18-107)

18-108. 2020 COVID-19 authority and response. (1) The City Manager of the City of Elizabethton is hereby authorized to develop any and all policies necessary to assist the customers of the Elizabethton Water Resources Department with late fees, cut off and installation fees and, the cut off of water services for the failure to pay a bill to the City of Elizabethton as the City Manager shall determine.

(2) That the Elizabethton City Manager shall have no authority to reduce the bills for the actual amount of water provided to customers of the City of Elizabethton Water Resources Department.

(3) This ordinance shall take effect immediately and the city manager's authority granted herein shall end on May 31, 2020. (as added by Ord. #56-9, March 2020 ***Ch2_03-11-21***)

CHAPTER 2

SEWER USE[1]

SECTION

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[1]Municipal code references
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Water and sewer system administration: title 18.
Wastewater treatment: title 18.

18-234. Exceptions to discharge criteria.
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18-243. 2020 COVID-19 authority and response.

18-201. Purpose and policy. This chapter sets forth uniform requirements for discharges into the Publicly Owned Treatment Works (wastewater collection system and treatment works) of the City of Elizabethton, Tennessee and enables the city to comply with the provisions of all applicable state laws, including Tennessee Code Annotated §§ 6-54-501 and 6-54-502; Public Chapter 111, Acts of 1987, amending Tennessee Code Annotated, title 69, chapter 3, part 1; the state pretreatment requirements (Tennessee Rule 1200-4-14); and federal laws, including the Clean Water Act (33 United States Code, section 125, et seq.); and the general pretreatment regulations (title 40 of the Code of Federal Regulations (CFR), part 403) to derive maximum public benefit by regulating the quality and quantity of wastewater discharged into the city's Publicly Owned Treatment Works (hereinafter referred to as POTW). This chapter establishes pretreatment requirements for nonresidential, commercial and industrial waste before discharge into the POTW as required in 40 CFR, part 403, and provides measures for the enforcement of its provisions and abatement of violations thereof. In case of any inconsistency or conflict between the provisions of any part of this chapter, as amended, and the provisions of any applicable state or federal law, regulation or rule, the applicable state or federal law, regulation or rule shall prevail.

The main objectives of this chapter are:

(1) To prevent the introduction of pollutants into the POTW that will interfere with its operation or contaminate the sewage sludge;

(2) To prevent the introduction of pollutants into the POTW that will interfere with its operation and/or pass through the POTW inadequately treated into the receiving waters, or otherwise be incompatible with the POTW;

(3) To protect POTW personnel, who may be affected by wastewater and sludge in the course of their employment, and the general public;

(4) To promote reuse and recycling of industrial wastewater and sludge from the POTW;

(5) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

This chapter shall apply to all users of the POTW. The chapter authorizes the issuance of individual wastewater discharge permits; provides for

monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting. (Ord. #48-17, Sept. 2012)

18-202. Administration. The city manager shall administer, implement, and enforce the provisions of this chapter, except as otherwise provided herein. Any powers granted to, or duties imposed upon, the city manager may be delegated by the city manager to a duly authorized city employee. (Ord. #48-17, Sept. 2012)

18-203. Abbreviations. The following abbreviations, when used in this chapter, shall have these designated meanings:

(1)	BOD	Biochemical Oxygen Demand;
(2)	BMP	Best Management Practice;
(3)	BMR	Baseline Monitoring Report;
(4)	CFR	Code of Federal Regulations;
(5)	CIU	Categorical Industrial User;
(6)	COD	Chemical Oxygen Demand;
(7)	EPA	U.S. Environmental Protection Agency;
(8)	gpd	Gallons per day;
(9)	IU	Industrial User;
(10)	mg/l	Milligrams per liter;
(11)	NPDES	National Pollutant Discharge Elimination System;
(12)	NSCIU	Non-Significant Categorical Industrial User;
(13)	POTW	Publicly Owned Treatment Works;
(14)	RCRA	Resource Conservation and Recovery Act;
(15)	SIU	Significant Industrial User;
(16)	SNC	Significant Noncompliance;
(17)	TSS	Total Suspended Solids. (Ord. #48-17, Sept. 2012)

18-204. Definitions. For purposes of this chapter, the following words, terms, and phrases, wherever used in this chapter, shall have the meanings respectively ascribed to them in this section, unless the context plainly indicates otherwise, or that a more restricted or extended meaning is intended.

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended by 33 U.S.C. § 1251, et seq.

(2) "Approval authority." The director of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation or his/her representatives.

(3) "Authorized representative of the user." (a) If the user is a corporation:

(i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental facility: a city manager or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in subsections (a) through (c) above may designate a duly authorized representative if the authorization is in writing, and the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(4) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-219(1) and (2). BMPs include treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal, drainage from raw materials storage, or the reduction of Fats, Oils and Grease (FOG) and trap or interceptor clean-out procedures.

(5) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Centigrade (20°C), usually expressed as a concentration in milligrams per liter (mg/l).

(6) "Board." Wastewater regulations appeals board.

(7) "Building sewer." The connecting sewer pipe beginning five feet (5') outside the building wall conveying wastewater from the building drain to the public sewer or other place of disposal.

(8) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or a categorical standard.

(9) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(10) "City." The City of Elizabethton, Tennessee, a municipal corporation.

(11) "City manager." The city manager of the city or duly authorized agents or representatives.

(12) "Chemical Oxygen Demand (COD)." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(13) "Control authority." The city.

(14) "Commercial." small businesses such as service stations, office buildings, restaurants, laundromats, warehouses, and other non-industrial businesses.

(15) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants as are now, or may be in the future, identified in the POTW NPDES permit, for which the POTW is designed to treat such pollutants and in fact does remove such pollutants in compliance with the NPDES permit.

(16) "Composite sample." A sample made by combining a number of grab samples collected over a defined period of time. A composite sample may be either a:

(a) "Flow proportional composite sample." A sample composed of sample aliquots combined in proportion to the amount of flow occurring at the time of their collection. Such samples may be composed of equal aliquots being collected after equal predetermined volumes of flow pass the sample point or of flow proportional grab sample aliquots being collected at predetermined time intervals so that at least eight (8) aliquots are collected per twenty-four (24) hours; or

(b) "Time proportional composite sample." A sample composed of equal sample aliquots taken at equal time intervals of not more than two (2) hours over a defined period of time.

(17) "Connection." Any physical tie or hookup made to a sewer line owned, operated, and maintained by the city.

(18) "Cooling water." The water used for heat exchange and discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which has not been in direct contact with any pollutant except heat.

(19) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(20) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course

of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(21) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(22) "Domestic waste." Liquid and waterborne pollutants from single-family, multi-family, apartment, or other dwelling units, and from the similar domestic sanitary facilities of commercial, industrial and institutional facilities.

(23) "Environmental Protection Agency (EPA)." The United States Environmental Protection Agency, or where appropriate the term may also be used as a designation of the administrator or other duly authorized officials of said agency.

(24) "Existing source." Any source of discharge that is not a new source.

(25) "Extra strength wastewater." Any wastewater that has any characteristic or combination of characteristics exceeding the characteristics of normal domestic wastewater and that require effort or expenditure over and above that required for treatment of normal domestic wastewater.

(26) "FOG." Fats, oils, grease and related substances of similar characteristics.

(27) "Food service establishment." A commercial or institutional facility discharging kitchen or food preparation wastewaters, such as restaurants, motels, hotels, cafeterias, delicatessens, meat cutting or preparation facilities, bakeries, hospitals, schools, bars, or any other facility that, in the city's discretion, may require a grease trap or interceptor installation by virtue of its operation.

(28) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(29) "Grab sample." A sample that is taken from a waste stream on a one-time basis and collected over a period of time not to exceed fifteen (15) minutes with no regard to the flow in the waste stream and without consideration of time.

(30) "Grease interceptor." A device utilized to effect the separation of grease and oils in wastewater effluent from food service establishment. An interceptor is a vessel of the outdoor type from any non-domestic source regulated under section 307(b) and (c) of the Act, underground type, normally of one thousand (1,000) gallon capacity or more, constructed of concrete, steel, or fiberglass.

(31) "Grease trap." A device utilized to effect the separation of grease and oils in wastewater effluent from a food service establishment. A trap is an under-the-counter or floor package unit, which is typically less than one hundred (100) gallons, constructed of steel or fiberglass.

(32) "Holding tank waste." Any waste from holding tanks, including by way of example but not limitation, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(33) "Incompatible pollutant." Any pollutant that is not a compatible pollutant as defined herein.

(34) "Indirect discharge" or "discharge." The discharge or introduction of pollutants from any non-domestic source regulated under section 307(b), (c), or (d) of the Act, including holding tank waste, discharged into the POTW for treatment before direct discharge to the waters of the State of Tennessee.

(35) "Industrial user." Any user of the POTW who discharges industrial wastes, as defined herein, into the POTW.

(36) "Industrial waste." The liquid and waterborne wastes resulting from processes or operations employed in industrial facilities.

(37) "Industry" and "industrial facilities." Any mill or factory in any branch of trade, production, or manufacturing, or all of these collectively, as determined by the city manager.

(38) "Infiltration." The water entering sanitary sewers and building sewers from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls, or other defects in sanitary sewers or building sewers. Infiltration does not include and is distinguished from inflow.

(39) "Inflow." The water discharged into sanitary sewers and building sewers from such sources as downspouts, roof leaders, cellar and yard area drains, commercial and industrial discharges of unpolluted wastewater, drains from springs and swampy areas, etc. Inflow does not include and is distinguished from infiltration.

(40) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(41) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(42) "Local limit." Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(43) "May." Permissive.

(44) "Maximum concentration." The maximum amount of a specified pollutant into a specified volume of water or wastewater.

(45) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, and other similar waste that may cause interference.

(46) "Monthly average." The sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(47) "Monthly average limit." The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(48) "Multi-dwelling." A dwelling unit or units in a complex or area wherein more than one (1) individual or one (1) family resides, with more than one (1) unit being supplied by a single water meter. This definition encompasses, among other things, apartment complexes, mobile home complexes or parks, and any unit or area which houses more than one (1) individual or family.

(49) "National Pollutant Discharge Elimination System permit (NPDES permit)." A permit issued pursuant to section 402 of the Act (33 U.S.C. § 1342) by the state under delegation from EPA.

(50) "National pretreatment standards" or "pretreatment standards." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users and/or this chapter.

(51) "Natural outlet." Any point of discharge into a watercourse, pond, ditch, lake, stream, or other body of surface or ground water.

(52) "New source." (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the

criteria of subsection (a)(ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(53) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(54) "Normal domestic wastewater." Daily average concentrations of wastewater containing suspended solids, BOD, animal and vegetable oil and grease, and ammonia that do not exceed the limitations on wastewater strength as established herein, and if it contains only compatible pollutants as defined herein.

(55) "Pass through." A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(56) "Person." Any and all persons, including individuals, partnerships, firms, companies, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations, or officers thereof, organized or existing under the laws of the state or any other state or country. The masculine gender shall include the feminine and the singular should include the plural where indicated by the context.

(57) "pH." A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter (g/l) of solution.

(58) "Pollutant." Any waste such as dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(59) "Premises." A parcel of real estate or portion thereof, including any improvements thereon, which is determined by the city manager to be a single user for purposes of receiving, using, and paying for wastewater services.

(60) "Pretreatment." The reduction of the amount of pollutants, the elimination of the 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 the POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes; by changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(61) "Pretreatment coordinator." The city manager, or the authorized designee of the city manager.

(62) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(63) "Pretreatment standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(64) "Private wastewater disposal system." Any facilities for wastewater treatment and disposal not owned, operated and maintained by the city.

(65) "Prohibited discharges." Absolute prohibitions against the discharge of certain substances; any pollutant or other discharge deemed "prohibited" by this chapter.

(66) "Properly shredded garbage." The organic waste resulting from the preparation, cooking, and dispensing of foods that have been shredded to such degree that all particles will be carried freely under flow conditions normally prevailing in sanitary sewers with no particle being greater than one-half inch (1/2") in any dimension.

(67) "Public sewer." A pipe, conduit, pump station or other appurtenance for conveying wastewater that is owned and controlled by the city.

(68) "Publicly Owned Pretreatment Works (POTW)." A treatment works, as defined by section 212 of the Act (33 U.S.C., section 1292), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater of all types to a treatment plant owned by the city.

(69) "Receiving stream." The body of water, stream, or watercourse receiving the treated discharge from a POTW.

(70) "Residential." A single-family dwelling unit.

(71) "Sanitary sewer." A public sewer that carries liquid and waterborne waste from residences, commercial establishments, industrial facilities and institutions, together with minor quantities of ground and surface waters that are not intentionally admitted.

(72) "Sanitary sewer overflow." An unintentional occurrence where wastewater discharges from the POTW to the surrounding ground surface and/or to the waters of the state.

(73) "Sanitary wastewater" or "sanitary sewage." Wastewater discharged from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, industries, and institutions, and free from storm water, ground water and surface water.

(74) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum truck wastes.

(75) "Sewage." Human excrement and gray water (household showers, wash basins, dishwashing and laundry operations, etc.).

(76) "Shall." Mandatory.

(77) "Significant Industrial User (SIU)." Means, except as provided in subsections (c) and (d) of this subsection, a significant industrial user is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiling blow-down wastewater);

(ii) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(iii) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) The city may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) The industrial user, prior to city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) The industrial user annually submits the certification statement required in § 18-228(12)(b) [Tennessee Rule 1200-4-14-.12(17)], together with any additional information necessary to support the certification statement; and

(iii) The industrial user never discharges any untreated concentrated wastewater.

(d) Upon a finding that a user meeting the criteria in subsection (b) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(78) "Significant violations." Violations that meet one (1) or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-233;

(b) Technical Review Criteria (TRC) violations defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of a numeric pretreatment standard or requirement including instantaneous limits as defined in § 18-204(40) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease; and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-204(62) or (63) respectively (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference, or pass through; including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control

mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(79) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(80) "Standard Industrial Code (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(81) "Standard methods." The analytical procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or "EPA Methods for Chemical Analysis of Water and Wastes." All procedures must conform to 40 CFR part 136.

(82) "State." The State of Tennessee.

(83) "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(84) "Storm sewer" or "storm drain." A pipe or conduit, ditch, or channel which carries storm water, cooling water or other water, but excludes wastewater.

(85) "Strength of waste." The concentration of pollutants or substances contained in a wastewater.

(86) "Total suspended solids" or "suspended solids." The total suspended matter that either floats on the surface of, or is in suspension in wastewater, water or other liquid, and which is measurable as prescribed by Standard Methods and expressed in milligrams per liter.

(87) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in laws or regulations promulgated by the EPA or the state.

(88) "Treatment works." Any devices and systems used in the storage, treatment, recycling, and reclamation of domestic wastewater and industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewer collection systems, pumping, power or other equipment and appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide reliable recycle supply such as stand-by treatment units and clear well facilities; and any works, including land, that will be an integral part of a treatment process or is used for ultimate disposal of residues resulting from such treatment.

(89) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water

unacceptable to the state or EPA having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.

(90) "User." Any person, facility or occupied property or premise having a connection to the POTW or having access thereto.

(91) "Waste." Sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers or whatever nature prior to, and for purposes of, disposal.

(92) "Wastewater" or "sewage." The liquid and water-carried commercial, industrial, institutional, or domestic wastes from dwellings, commercial establishments, industrial facilities, and institutions together with any ground water, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the city's POTW.

(93) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(94) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological, and radiological parameters, including volume and flow rate and such other parameters as served to define, classify, or measure the contents, quantity, quality, and strength of wastewater. Terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods.

(95) "Wastewater treatment plant" or "wastewater plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord. #48-17, Sept. 2012)

18-205. Unlawful disposal. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste; and it shall be unlawful to discharge to any natural outlet within the service area of the city any wastewater or other polluted waters except where suitable treatment has been provided in accordance with this chapter. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. (Ord. #48-17, Sept. 2012)

18-206. Private wastewater disposal. Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this chapter. A formal

application for either original or additional service utilizing a private wastewater disposal system must be made to the city and be duly approved before construction or reconstruction is commenced. (Ord. #48-17, Sept. 2012)

18-207. Septic tank and disposal field requirements. The septic tank and disposal field shall be constructed or reconstructed only in locations which have been approved by the city manager, the Carter County Health Department, and/or the Tennessee Department of Environment and Conservation after making such tests and examinations of the site as deemed essential to determine if the soil absorption, topography, drainage area, etc., are satisfactory for underground disposal. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply.

The type, capacity, location, and layout of a private wastewater disposal system shall comply with all requirements of the Department of Environment and Conservation of the State of Tennessee and the Carter County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Ord. #48-17, Sept. 2012)

18-208. Private system permit. A permit for a private wastewater disposal system shall not become effective until installation is completed to the satisfaction of the Carter County Health Department and/or the Tennessee Department of Environment and Conservation and such written documentation is provided to the city manager. (Ord. #48-17, Sept. 2012)

18-209. Public sewer connection and maintenance. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public gravity sanitary sewer is hereby required, at his expense, to install suitable sanitary facilities therein, and a direct connection to the public gravity sanitary sewer shall be made within ninety (90) days after date of official notice from the city manager to do so, provided the sewer is available. When a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and filled with suitable materials.

The sewer shall be considered available where the public gravity sanitary sewer is within a public right-of-way and two hundred feet (200') of the first floor of the closest part of the improvement or improvements to be served. If complications of any kind make the use of a pump necessary to access the public gravity sanitary sewer, the pump and appurtenances are to be purchased, installed, owned and maintained by the property owner. Where sewer is

available, the wastewater from the premises will be discharged either directly or indirectly into the public sewer, and the property shall be billed for sewerage service. However, if the making of connection is delayed, the property shall be subject to billing charges thirty (30) days after the sewer is accepted by the city manager. An extension of time may be granted by the city manager for cause.

Sewer line extension and maintenance shall be conducted as follows:

(1) The city shall solely determine the size, extent, layout, and details of any sewer extension that will be owned, operated and maintained by the city, including whether the sewer extension will be gravity sewer or low pressure sewer.

(2) Sewer mains. The city shall maintain its gravity and pressure sanitary sewer mains.

(3) Sewer clean-outs. Sanitary sewer customers at their expense shall install an approved clean-out at the property boundary line. In the event no clean-out exists the city shall insure that the main sewer line is free flowing and fully operational, but shall perform no work on any part of the lateral service line. In instances where the city is engaged in work and has an open excavation right at the property boundary line, the city may install or replace sewer clean-outs.

(4) Lateral lines and sewer lines on private property. The city shall perform no work on customer-owned sewers on private property or on lateral service lines outside the city's right-of-way, nor on any lateral line which has no approved clean-out installed. The city will assist sanitary sewer customers in locating blockages or breakdowns in the lateral service lines between the sewer main located in a street right-of-way or established easement and the customer's property line, provided there is a property installed clean-out at the property boundary.

(5) Privately owned/operated pumps, controls and pressure lines. The city will not maintain any privately owned pumps, control systems or pressure lines.

(6) All pumps and appurtenances currently located on private property that have been heretofore prior to the latest effective date of this chapter maintained by the city shall continue to be maintained by the city upon written indemnification of the city by the private property owner of any liability for entering into such private property and conducting the pump and appurtenance maintenance activities. A lack of such indemnification of the city shall be cause for the city to terminate such maintenance. (Ord. #48-17, Sept. 2012)

18-210. Building sewers and connections. No unauthorized person shall cover, uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city manager. A separate and independent building sewer shall be provided for every building. The connection of the building sewer into the public sewer shall conform to the rules and regulations the city may

establish. The finished floor elevation of the building shall be at least one foot (1') (twelve inches (12")) higher than the ground elevation at the point where the lateral connection sewer line connects to the main sewer in the city easement. Any parts of the building that have an elevation difference less than twelve inches (12") between the finished floor level and the outside ground elevation as described above must be elevated to meet that standard, otherwise the building connection shall include a low pressure grinder pump and related appurtenances. All such connections shall be made gastight and watertight.

Any deviations from the prescribed procedures and materials must be approved by the city manager before installation. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or ground water to a building sewer which in turn is connected directly or indirectly to a public sanitary sewer.

All costs and expense incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. #48-17, Sept. 2012)

18-211. <u>Building sewer inspection</u>. The sewer connection and all sewer laterals from the building to the sewer main line shall be inspected by an inspector of the city before any underground portion is covered. (Ord. #48-17, Sept. 2012)

18-212. <u>Use of existing building sewers</u>. Sewer taps and building sewers which have been previously used, but have been abandoned due to the razing of the building structure or for other reasons, may be used in connection with a new structure without a new tap fee to the extent that the existing tap and building sewer is adequate in the opinion of the city manager. Such existing taps and building sewers shall be examined and tested by the city manager and must meet all requirements of this chapter. All existing taps and building sewers determined to be noncompliant must be sealed or removed to the specifications of the city. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the

building sewer as deemed necessary by the city manager to meet specifications of the city. (Ord. #48-17, Sept. 2012)

18-213. Easements. The city manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. #48-17, Sept. 2012)

18-214. Interruption of service. In cases of emergency, the city shall have the right to restrict the use of any portion of its POTW in any reasonable manner for the protection of the city and the POTW. (Ord. #48-17, Sept. 2012)

18-215. Discontinuance of service/refusal of service. The city manager shall, after written notice and allowance of a reasonable time for remedial action, have the right to discontinue service or to refuse to render service for a violation of, or a failure to comply with, this chapter, the rules and regulations, the customer's application and agreement for service, or the payment of any obligation due to the city. Such right to discontinue service shall apply to all service received through a single tap or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant. Discontinuance of service by the city manager for any causes stated in this chapter shall not release the customer from liability for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's agreement. The city manager shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, apartment, or dwelling unit to which such service is to be furnished is in default in the payment of any obligation to the city or has heretofore had his service disconnected because of a violation of this chapter or the rules and regulations of the city. (Ord. #48-17, Sept. 2012)

18-216. Discontinuance of service upon noncompliance. The city shall have the right to discontinue city water and/or sewer service to any person or owner who violates any provisions of this chapter or who fails to make sewer service charge payments when due, or who fails to pay the necessary tap fees when due, or who fails, after notice, to connect his property to said available sewer. However, no such service shall be discontinued without notice to the person and opportunity to be heard, and in this connection there is hereby incorporated by reference and adopted the provisions of Tennessee Code

Annotated, §§ 68-221-208 and 68-221-209, as amended. (Ord. #48-17, Sept. 2012)

18-217. Users outside city limits. (1) Application. Persons residing or owning property outside the corporate limits of the City of Elizabethton may request and make application for a sewer tap which application in turn will be directed to the city council, which has the absolute right to allow or refuse said application or request.

(2) Regulations. Any application or request by outside users of the city sanitary sewer system will be subject to the same rules and regulations as inside users. It is further provided that any other person or persons are prohibited from tapping onto the sanitary sewer line and the outside user will not allow any other person or persons to tap onto the established line.

(3) Fees. Persons residing or owning property outside the corporate limits of the City of Elizabethton shall be subject to the schedule of charges and fees applied to all outside users.

(4) Revocation of service. The city is hereby granted authority to discontinue sewer service to any outside user who violates any of the provisions of this chapter or fails to pay the entire sewer installation cost and tap fee when due.

(5) Penalties. Any person or persons violating any of the provisions of this subsection shall be liable to the City of Elizabethton for any and all expenses, losses, or damages resulting to the public and/or POTW, by reason of such violation. It is further provided any person violating any provisions of this subsection shall be subject to the penalties imposed under § 18-236 of this chapter. (Ord. #48-17, Sept. 2012)

18-218. Wastewater disposal services. No person, firm, or corporation engaged in the business of cleaning out septic tanks or any other type of excreta disposal shall discharge any waste to a sanitary sewer or the POTW. (Ord. #48-17, Sept. 2012)

18-219. Prohibited wastewater discharges. All users of the POTW shall comply with the following regulations and restrictions before discharging, or causing to be discharged, any wastewater to the POTW. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods.

(1) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Centigrade [60° C]) using the test methods specified in 40 CFR 261.21;

(b) Wastewater having a pH less than 5.5 or more than 9.5 or otherwise causing corrosive structural damage to the POTW or equipment;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one and one-half inch(es) (1 1/2") in any dimension;

(d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(e) Wastewater having a temperature greater than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Centigrade (60° C)), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (104° F) (forty degrees Centigrade (40° C));

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause worker health and safety problems;

(h) Trucked or hauled pollutants, except with prior written approval and any permits as required by the city, including specific discharge points designated by the city;

(i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent that violates the city's NPDES permit;

(k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the city;

(m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(n) Medical wastes, except as specifically authorized by the city in an individual wastewater discharge permit;

(o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(p) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;

(q) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in the process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting to the POTW. (Ord. #48-17, Sept. 2012)

18-220. Fats, Oils and Grease (FOG). (1) Standards and requirements for food service establishments. Food service establishments, as defined in this chapter, shall provide means of preventing grease and oil discharges to the POTW. Where a grease and oil interceptor currently exists or is required by the city, it shall be maintained for continuous, satisfactory, and effective operation by the owner, leaseholder, or operator at his expense. Grease and oil interceptors shall be of a type and capacity approved by the city and shall be located as to be readily accessible for cleaning and inspection.

(a) All food service establishments shall have grease-handling facilities approved by the city. Establishments whose grease-handling facilities or methods are not adequately maintained to prevent Fats, Oils, or Grease (FOG) from entering the wastewater system shall be notified in writing by the city manager of any noncompliance and required to provide a schedule whereby corrections will be accomplished.

(b) All food service establishments' grease-handling facilities shall be subject to review, evaluation, and inspection by the city's representatives during normal working hours. Results of inspections will be made available to the owner or operator. The city may make recommendations for correction and improvement.

(c) Each facility will be issued a grease interceptor/trap maintenance log upon initial inspection. Failure to maintain a log shall constitute a violation of this chapter.

(d) Food service establishments receiving two (2) consecutive unsatisfactory evaluations or inspections shall be subject to penalties or

other corrective actions as provided for in § 18-236 of this chapter. Two (2) consecutive satisfactory inspections need to be conducted to bring the facility into compliance.

(e) Food service establishments that continue to violate the city's grease standards and requirements shall be subject to additional enforcement action, including termination of service.

(f) Food service establishments whose operations cause or allow excessive FOG to discharge or accumulate in the city's collection system shall be liable to the city for costs related to city service calls for line blockages, line cleanings, line and pump repairs, etc., including all labor, materials, and equipment. If the blockage results in a Sewer System Overflow (SSO), and the city is penalized for the SSO, the penalty shall be passed along to the food service establishment.

(g) Regularly scheduled maintenance of grease-handling facilities is required to insure adequate operation. In maintaining the grease interceptors and/or grease traps, the owner, leaseholder, or operator shall be responsible for the proper removal and disposal of grease by appropriate means and shall maintain an on-site record of dates and means of disposal.

(h) All grease traps and/or grease interceptors shall be cleaned based on the twenty-five percent (25%) rule or when the discharge exceeds fifty (50) mg/l.

For example: If the Total Depth (TD) of the Grease Interceptor (GI) is forty inches (40"), the maximum allowable depth (d) of floatable grease equals forty inches (40") multiplied by 0.25 or d=TD x 0.25=10 inches. Therefore, the maximum allowable depth of floatable grease of the vessel should not exceed ten inches (10").

(i) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice.

(j) Any food service establishment whose effluent discharge to the wastewater system is determined by the city to cause interference in the conveyance or operation of the wastewater system shall be required to sample the grease interceptor and/or grease trap discharge and have it analyzed for FOG at the expense of the owner, leaseholder, or operator. The city shall approve the sampling plan and shall witness the taking of the samples. The analyses shall be performed by a certified laboratory and the report of such analyses shall be provided to the city.

(k) All grease interceptors and/or grease traps shall be designed and installed to allow for complete access for inspection and maintenance of the inner chamber(s) and viewing and sampling of effluent wastewater discharged to the public sewer. These chambers shall not be visually obscured with soil, mulch, floorings, or pavement of any material.

(l) Food service establishments shall adopt Best Management Practices (BMPs) for handling sources of floatable FOG originating within

their facility. A notice shall be permanently posted at a prominent place in the facility advising employees of the BMPs to be followed. The city may render advice regarding the minimization of waste.

(m) Food service establishments shall develop and implement a waste minimization plan pertaining to the disposal of FOG and food particles.

(2) Construction standards for new food service establishments. All new food service establishments shall be required to install an outdoor grease interceptor, the design and location of which must be approved in writing by the city prior to installation.

(a) Grease interceptors shall be adequately sized, with no interceptor less than one thousand (1,000) gallons total capacity unless otherwise approved by the city.

(b) The inlet chamber of the vessel will incorporate a PVC open sanitary tee that extends equal to or greater than twelve inches (12") below the water surface. The outlet chamber of the vessel will incorporate a PVC open sanitary tee that extends two-thirds (2/3) below the water surface. The sanitary tees (both inlet and outlet) will not be capped, but opened for visual inspection of the waste stream.

(c) All grease interceptors, whether singular or two (2) tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptor in working and operating condition.

(d) All pot and pan wash, pre-rinse sinks, and scullery and floor drains will connect and discharge to the grease interceptor.

(e) Where automatic dishwashers are not installed, the discharge from dishwashing will pass directly into the building drainage system without passing through a grease trap, unless otherwise directed by the city.

(f) Where automatic dishwashers are installed, the discharge from those units will discharge directly into the grease interceptor, before entering the building drainage system.

(g) The pre-rinse sink of the automatic dishwasher will discharge directly into the grease interceptor and/or grease traps.

(h) Where food waste grinders are installed, the waste from those units shall discharge directly into the building drainage system without passing through grease interceptor and/or grease traps.

(i) The grease trap is to be installed at least fifteen feet (15') from the last drainage fixture, except as may be approved by the city manager.

(j) The grease interceptor is installed at least nine feet (9') from the exterior wall, except as may be approved by the city manager.

(k) The grease interceptor is not to be installed within a drive-thru pick-up area, underneath menu boards, or in the vicinity of menu boards.

(l) A grease trap may be installed in lieu of a grease interceptor, at the discretion of the city. This determination will be based on engineering concepts that dictate the grease interceptor installation is not feasible. The capacity, design and location of the grease trap must be approved in writing prior to installation by the city.

(m) The gallonage capacity of a grease trap shall be equal to or greater than double the gallonage capacity of all drainage fixtures discharging to the grease trap. These fixtures and other potentially grease-containing drains connecting to the grease trap will be determined and approved by the city prior to installation.

(n) No new food service establishments will be allowed to initiate operations until all grease-handling facilities are approved, installed, and inspected by the city.

(o) A basket, screen, or other intercepting device shall prevent passage into the drainage system of solids one-half inch (1/2") or larger in size. The basket or device shall be removable for cleaning purposes.

(3) Construction standards for existing food service establishments. All existing food service establishments shall have grease-handling facilities. Food service establishments without any grease-handling facilities will be given a compliance schedule to have grease-handling equipment installed. Failure to do so will be considered a violation of this chapter and shall subject the establishment to penalties and/or corrective actions.

(a) In the event that an existing food service establishment's grease-handling facilities are either under-designed or substandard in accordance with this chapter, the owner(s) will be notified in writing of the deficiencies and required improvements and given a compliance schedule.

(b) For cases in which outdoor grease interceptors are infeasible to install, existing food service establishments will be required to install approved under-the-counter grease traps.

(c) Factory-installed flow control fittings must be provided to the inlet side of all under-the-counter grease traps to prevent overloading of the grease trap and to allow for proper operation.

(d) City approval of grease trap design will be obtained prior to installation.

(e) The location of under-the-counter units must be determined and approved by the city prior to installation.

(f) Wastewater from garbage grinders should not be discharged to grease interceptors.

(g) Wastewater from automatic dishwashers should be discharged to grease interceptors.

(h) Wastewater from the pre-rinse sink of the automatic dishwasher shall discharge directly into grease interceptors.

(i) In maintaining grease interceptors, the owner(s) shall be responsible for the proper removal and disposal of captured material and shall maintain records of the dates and means of disposal.

(j) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice. All grease interceptors must be cleaned based on the twenty-five percent (25%) rule. (Ord. #48-17, Sept. 2012)

18-221. Application for domestic and commercial service. A formal application for either original or additional domestic or commercial service must be made at the office of the city manager and be duly approved before connection is made. The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers for additional services may be granted by the city manager for interim periods if compliance may be assured within a reasonable period of time. (Ord. #48-17, Sept. 2012)

18-222. Application for industrial service. (1) An application for original, additional, or continuation of industrial service must be made at the office of the city manager, and must be duly approved before connection is made. The application shall be in the prescribed form of the city and shall include to the extent reasonably available the estimated pH, temperature, volume, and concentration of BOD, COD, suspended solids, grease, toxic substances, and/or metals together with a drawing to approximate scale showing plan of property, water distribution system and sewer layout indicating existing and proposed pretreatment and/or equalization facilities. The receipt by the city of a prospective user's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(2) All information and data for a user obtained from reports, questionnaires, permit application, permits, monitoring programs, and inspection shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city manager that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position. When requested by the person furnishing the report, the portions of a report which might disclose trade secrets

or confidential processes shall not be made available for inspection by the public, but shall be made available to public governmental agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the city manager as confidential shall not be transmitted to any public governmental agency or to the general public by the city manager until and unless prior and adequate notification is given to the potential industrial user. (Ord. #48-17, Sept. 2012)

18-223. Application for industrial wastewater discharge permit.

(1) Permit requirements. All industrial users proposing to connect to and discharge wastewater into any part of the POTW that will qualify for the city's pretreatment program must first apply for a discharge permit therefore. No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the city, except that a significant industrial user that has an existing connection to the POTW and has filed a timely application pursuant to this chapter may continue to discharge for the time period specified herein.

(a) The city may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(b) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-236 and 18-237 of this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(2) Existing connections. Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of the ordinance comprising this chapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the city for an individual wastewater discharge permit in accordance with this chapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit issued by the city.

(3) New connections. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge

permit, in accordance with this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(4) Permit applications. Users seeking a wastewater discharge permit shall complete and file with the city manager an application in the form prescribed by the city manager. In support of this application, the user shall submit the following information:

(a) Identifying information. (i) The name and address of the facility, including the name of the operator and owner.

(ii) Contact information, description of activities, facilities, and plant production processes on the premises.

(b) Environmental permits. A list of any environmental control permits held by or for the facility.

(c) Description of operations. (i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

(ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(iv) Type and amount of raw materials processed (average and maximum per day);

(v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(d) Time and duration of discharges.

(e) The location for monitoring all wastes covered by the permit.

(f) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in § 18-232(2) [Tennessee Rule 1200-4-14-.06(5)].

(g) Measurement of pollutants. (i) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process.

(iii) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-228(9) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.

(v) Sampling must be performed in accordance with procedures set out in § 18-228(10) of this chapter.

(h) Any other information as may be deemed necessary by the city to evaluate the permit application.

(5) Application signatories and certifications. All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-228(12). If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the city manager prior to or together with any reports to be signed by an authorized representative.

(6) The city will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete permit application, the city will determine whether to issue an individual wastewater discharge permit. The city may deny any application for an individual wastewater discharge permit.

The city manager will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the city manager 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 city manager, the city manager shall deny the application and notify the applicant in writing of such action. (Ord. #48-17, Sept. 2012)

18-224. Issuance of industrial wastewater discharge permit.

(1) Permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the city manager. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city manager

to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date.

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards.

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(vi) Requirements to control slug discharge, if determined by the city manager to be necessary.

(vii) Any grant of the monitoring waiver by the city manager must be included as a condition in the user's permit.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(viii) Other conditions as deemed appropriate by the city manager to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(3) Permit modification. The city manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with this chapter.

(4) Permit transfer. Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days' advance notice to the city manager and the city manager approves the individual wastewater discharge permit transfer. The notice to the city manager must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

(5) Permit revocation. The city manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the city manager of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the city manager of changed conditions pursuant to this chapter;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports and certification statements;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the city manager timely access to the facility premises and records;

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(6) Permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit. (Ord. #48-17, Sept. 2012)

18-225. Pretreatment of wastewater. (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-219 of this chapter

within the time limitations specified by EPA, the state, or the city manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city manager for review, and shall be acceptable to the city manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the city may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(b) The city may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the city, shall comply with § 18-220 of this chapter, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense in accordance with § 18-220 of this chapter.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/slug discharge control plans. The city manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city manager may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the city manager may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the city of any accidental or slug discharge, as required by § 18-228(6)(a) of this chapter; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the city manager. Such waste shall not violate any of the requirements of this chapter or any other requirements established by the city. The city may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b) The city may require haulers of industrial waste to obtain individual wastewater discharge permits. The city may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The city also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(c) Industrial waste haulers may discharge loads only at locations designated by the city manager. No load may be discharged without prior consent of the city manager. The city may collect samples of each hauled load to ensure compliance with applicable standards. The city may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. #48-17, Sept. 2012)

18-226. Industrial and commercial pretreatment facilities.

(1) Design and construction. All commercial or industrial users of the wastewater treatment works who elect or are required to construct new or additional facilities for pretreatment shall submit plans, specifications, and other pertinent information relative to the proposed construction to the city manager for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the

State of Tennessee. Written approval of the city manager must be obtained before construction of new or additional facilities may begin. The plans, specifications, and other pertinent information submitted to the city for approval will be retained as file material for future reference with one (1) approved copy returned to the user.

(2) Inspection of facilities. A permit for the operation of a new or existing pretreatment or equalization system shall not become effective until the installation is completed to the satisfaction of the city manager and written approval for operation is issued to the owner by the city manager. The city manager or his representative shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the city manager when the work is ready for final inspection. In addition, the city manager shall be allowed to make periodic inspections of the facilities in operation as he deems necessary. The city manager may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city manager or their representatives ready access at all reasonable times to parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The city manager shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. If the user is found to be in violation of the discharge permit, then such user shall be financially responsible and shall pay for any and all civil penalties and damages, including sampling and analytical costs.

(3) Maintenance of facilities. It shall be the responsibility of the owner to maintain all wastewater treatment or equalization facilities in good working order at all times. The city must be notified in writing when pretreatment facilities will not be or are not operative by reason of equipment malfunction, emergency or routine maintenance, or any reason whatsoever. It shall be the responsibility of the owner to repair and maintain all pretreatment facilities on a high priority basis. (Ord. #48-17, Sept. 2012)

18-227. Monitoring facilities. All users who propose to discharge wastewater with flows, constituents, and characteristics different from normal domestic wastewater, or whose source of water is supplied from other than the city's water system, shall be required to install a monitoring facility. The monitoring facility shall be a manhole or other suitable facility approved by the city manager.

When, in the judgment of the city manager, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the city manager may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable

inspection, sampling, and flow measurement of wastewater produced by the user. If sampling or metering equipment is also required by the city manager, such sampling and metering equipment shall be required by the city manager only after sampling and metering by the city establishes the existence of significant variations in concentrations or constituents of the user's discharge. Wastewater samples will be made available to the industry if requested.

The monitoring facility will normally be required to be located on the user's premises outside the building. The city manager may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for city personnel.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the city manager's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the city manager, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by the city manager. (Ord. #48-17, Sept. 2012)

18-228. Industrial user reporting requirements. (1) Baseline monitoring reports. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in subsection (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in subsection (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) All information required in §§ 18-223(4)(a)(i), 18-223(4)(b), 18-223(4)(c)(i), and 18-223(4)(f).

(ii) Measurement of pollutants. (A) The user shall provide the information required in § 18-223(4)(g)(i) through (iv).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with §§ 18-228(9) and 18-228(10).

(E) The city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(c) Compliance certification. A statement, reviewed by the user's authorized representative as defined by § 18-204(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-228(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-228(12)(a) of this chapter and signed by an authorized representative as defined in § 18-204(3).

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-228(1)(d) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the pretreatment coordinator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the city.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in §§ 18-223(4) and 18-228(1)(b) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-232, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-228(12)(a) of this chapter. All sampling will be done in conformance with § 18-228(10).

(4) Periodic compliance reports. (a) All significant industrial users must, at least twice a year or at a higher frequency determined by the city, submit reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires

compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with § 18-228(12)(a) of this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city, using the procedures prescribed in § 18-228(10) of this chapter, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the city of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The pretreatment coordinator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

(b) The city may reissue an individual wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

(c) No industrial user shall implement the planned changed condition(s) until and unless the city has responded to the industrial user's notice.

(d) For purposes of this requirement, flow increases of ten percent (10%) or greater, or the discharge of any previously unreported pollutants shall be deemed significant.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW (including a violation of the prohibited discharge standards in § 18-219 of this chapter), the user shall immediately telephone and notify the pretreatment coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the industrial user shall, unless waived by the city, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any administrative penalties, civil penalties, or other liability which may be imposed by this chapter.

(c) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this chapter.

(d) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(e) Significant industrial users are required to notify the pretreatment coordinator immediately of any changes at their facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the pretreatment coordinator as the city may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the pretreatment coordinator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the pretreatment coordinator within thirty (30) days after becoming aware of the violation. Re-sampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user. If the city performed the sampling and analysis in lieu of the industrial user, the city will perform the repeat sampling and analysis unless the city notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(9) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical

techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the city or other parties approved by the EPA.

(10) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in §§ 18-228(1) and 18-228(3) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For the reports required by § 18-228(4) [Tennessee Rule 1200-4-14-.12(5) and (8)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(11) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(12) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-223; users submitting

baseline monitoring reports under § 18-228(1)(e); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-228(3); and users submitting periodic compliance reports required by § 18-228(4). The following certification statement must be signed by an authorized representative as defined in § 18-204(3):

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the city pursuant to § 18-204(77)(a)(iii) must annually submit the following certification statement signed in accordance with the signatory requirements in § 18-204(3). This certification must accompany an alternative report required by the city:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____ [months, days, year]:
>
> The facility described as _____ [facility name] met the definition of a Non-significant Categorical Industrial User as described in § 18-204(77)(a)(iii); and the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and the facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period.
>
> This compliance certification is based on the following information:
> [Attach supporting information].

(13) Hazardous material reporting. The industrial user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under Tennessee 1200-1-11.

(a) Such notification must include the name of the hazardous waste as set forth in Tennessee 1200-1-11, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during the calendar month and an estimation of the mass of the constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Tennessee 1200-4-14-.12(10). The notification requirement in this rule does not apply to pollutants already reported under the self monitoring requirements of Tennessee 1200-4-14-12(2), (4) and (5).

(b) Dischargers are exempt from the requirements of subsection (13)(a) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in Tennessee 1200-1-11-.02(4)(a) and (4)(d). Discharge of more than fifteen (15) kilograms of non-acute hazardous waste in a calendar month, or of any acute hazardous wastes as specified in Tennessee 1200-1-11-.02(4)(a) and (4)(d), requires a one (1) time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this subsection, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. #48-17, Sept. 2012)

18-229. Maintenance of records by industrial users. Any industrial user subject to the reporting requirements established in this chapter shall maintain records of all information resulting from any monitoring activities required by this chapter. Such records shall include for all samples:

(1) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(2) The dates analyses were performed;

(3) Who performed the analyses;

(4) The analytical techniques/methods used; and

(5) The results of such analyses.

Any industrial user subject to the reporting requirement established in this chapter 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) including documentation associated with best management practices established under § 18-233(2)(c), and shall make such records available for inspection and copying by the city manager, the Director of the Division of Water Quality Control, Tennessee Department of Health, the Environmental Protection Agency or the Tennessee Division of Water Pollution Control. This period of retention shall be extended during the course of any unresolved litigation involving the POTW and the industrial user or when requested by the city manager, the approval authority, the Environmental Protection Agency or the Tennessee Department of Environment and Conservation. (Ord. #48-17, Sept. 2012)

18-230. Compliance monitoring. (1) Right of entry for inspection and sampling. The city manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the city manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The city manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The city manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semi-annually to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city manager and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the city manager access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the city manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probably cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the city manager may seek issuance of a search warrant from the appropriate court of jurisdiction. (Ord. #48-17, Sept. 2012)

18-231. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the city manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential

information and shall be available to the public without restriction. (Ord. #48-17, Sept. 2012)

18-232. **National categorical pretreatment standards**. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471.

(1) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(3) Not used.

(4) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with subsections (a)--(b)(iv) of this section:

(a) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water from the city's water system in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants from the city's water system must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of subsection (2) of this section are met.

(b) Criteria. (i) Either:

(A) The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or

(B) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

(ii) Credit for generic pollutants such as Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), and oil and grease should not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(iii) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to

a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

(iv) Credit shall be granted only if the user demonstrates that the intake water is drawn from the city's water system. (Ord. #48-17, Sept. 2012)

18-233. State pretreatment standards. (1) Users must comply with State of Tennessee Pretreatment Standards codified at Tennessee Code Annotated, §§ 69-3-101, et seq. and 4-5-120, et seq.

(2) Local limits. (a) The city is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) The following pollutant parameters are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the daily maximum limits established by the city, and are applicable at the point where the wastewater is discharged into the POTW. Local limit calculations will be maintained on file by the city. Local limits have been established for the following pollutants:

BOD	Total toxic organics
TSS	Mercury
Oil and grease	Molybdenium
Aluminum	Naphthalene
Arsenic	Nickel
Ammonia	Phenols (total)
Benzene	Phthalates (total)
Cadmium	Silver
Carbon tetrachloride	Selenium
Chloroform	Tetrachloroethylene
Chromium (total)	Toluene
Copper	1,2 TransDichloroethylene
Cyanide	1,1,1 Trichloroethane
Ethylbenzene	Trichloroethane
Lead	MBAS
Methylene chloride	Zinc
Free oil and grease	pH

(c) The city may develop Best Management Practices (BMPs) in individual wastewater discharge permits to implement local limits and the requirements of this chapter.

(d) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate at the sole discretion of the city. (Ord. #48-17, Sept. 2012)

18-234. Exceptions to discharge criteria. (1) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-219 and 18-233 of this chapter. Exceptions can be granted according to the following guidelines subject to the appeals procedure provided under this chapter.

The city manager may allow applications for temporary exceptions at any time, in accordance with the conditions set forth in subsection (2) of this section. However, the city manager shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the city.

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 city in its review of the application.

(2) Conditions. All exceptions granted under this section shall be temporary and subject to revocation at any time by the city manager upon reasonable notice.

The user requesting the exception must demonstrate to the city manager that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if exempted, will not:

(a) Interfere with the normal collection and operation of the wastewater treatment system.

(b) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management.

(c) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its in-force federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations. A surcharge shall be applied to any exception granted under this

section. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user. At such time that the levels of pollutants must be reduced because of violations of any of the provisions of this section, the following method shall be used to reduce the discharge levels: All users shall be required to reduce their discharge levels by a sufficient amount to meet the standard being violated. Users shall be required to reduce their discharge levels in proportion to their contribution to the system.

(3) Review of application by the city manager. All applications for an exception shall be reviewed by the city manager. If the application does not contain sufficient information for complete evaluation, the city manager shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the city manager to correct such deficiencies. This thirty (30) day period may be extended by the city upon application and for just cause shown. Upon receipt of a complete application, the city manager shall evaluate same within thirty (30) days and shall submit his recommendations to the city at its next regularly scheduled meeting.

(4) Review of application by the city. The city shall review and evaluate all applications for exceptions and shall take into account the following factors:

(a) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in §§ 18-219 and 18-233 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(b) 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, and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(c) 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 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;

(e) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(f) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(g) 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. (Ord. #48-17, Sept. 2012)

18-235. Publication of users in significant noncompliance. The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the city, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (3), (4) or (8) of this section) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement as defined in § 18-233;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined in § 18-204(40) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by § 18-233 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of best management practices, which the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. #48-17, Sept. 2012)

18-236. Administrative enforcement remedies. (1) Notification of violation. When the city manager finds that a user has violated, or continues to violate, any provisions of this chapter, or an individual wastewater discharge permit, or an order issued hereunder, or any other pretreatment standard or requirement, the city manager may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city manager. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The city manager may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this chapter and shall be judicially enforceable.

(3) Show cause hearing. The city manager may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the 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 thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in this chapter. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance orders. When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance

within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Cease and desist orders. When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(6) Administrative penalties. (a) When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may penalize such user in an amount not to exceed ten thousand dollars ($10,000.00), or the maximum penalty allowed under the State of Tennessee law, whichever is greater at the time of violation. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges and penalties may, after thirty (30) calendar days, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property may be sought for unpaid charges and penalties.

(c) Users desiring to dispute such penalties must file a written request for the city manager to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the city manager may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city manager may add the costs of preparing

administrative enforcement actions, such as notices and orders, to the penalty.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(7) Emergency suspensions. The city manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The city manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city manager may take such stops as deemed necessary, including immediate severance of the POTW connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city manager that the period of endangerment has passed, unless the termination proceedings in this chapter are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city manager prior to the date of any show cause or termination hearing under this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) Termination of discharge. In addition to the other provisions of this chapter, any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(e) Violation of the pretreatment standards of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under the provisions of this chapter why

the proposed action should not be taken. Exercise of this option by the city manager shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. #48-17, Sept. 2012)

18-237. Judicial enforcement remedies. (1) Injunctive relief. When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may petition the appropriate court of jurisdiction through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, but not less than one thousand dollars ($1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The city manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever

is greater at the time of violation, per violation, per day, or imprisonment, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a monetary penalty, or be subject to imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, per violation, per day, or imprisonment, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than ten thousand dollars ($10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, per violation, per day, or imprisonment, or both.

(4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The city manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city manager may take other action against any user when the circumstances warrant. Further, the city manager is empowered to take more than one (1) enforcement action against any noncompliant user. (Ord. #48-17, Sept. 2012)

18-238. Affirmative defenses to discharge violations. (1) Upset.

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the city within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. (a) General prohibitions.

(i) A user may not introduce into the POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in subsection (b) of this rule apply to each user introducing pollutants into the POTW whether or not the user is subject to other national pretreatment standards or any national, state, or local pretreatment requirements.

(ii) Affirmative defense. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in subsection (a)(i) of this rule and the specific prohibitions in subsections (b)(iii), (b)(iv), (b)(v), (b)(vi) and (b)(vii) of this rule where the user can demonstrate that:

(A) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(B) A local limit designed to prevent pass through and/or interference, as the case may be, fits one of the following descriptions:

(1) The local limit was developed in accordance with subsection (c) of this rule for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(2) The local limit has not been developed in accordance with subsection (c) of this rule for the pollutant(s) that caused pass through or interference, the user's discharge directly prior to and during the pass through or interference did not differ substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(b) Specific prohibitions. (i) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 CFR 261.21;

(ii) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5, unless the works is specifically designed to accommodate such discharges;

(iii) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;

(iv) Heat in the 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 POTW treatment plant exceeds one hundred four degrees Fahrenheit (104° F) or forty degrees Centigrade (40° C) unless the approval authority, upon request of the POTW, approves alternative temperature limits;

(v) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(vi) Pollutants which result in the presence of toxic gasses, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(vii) Any trucked or hauled pollutants, except at discharge points designated by POTW.

(c) When specific limits have been developed by POTW.

(i) The POTW shall enforce the limits of their pretreatment program and shall continue to develop these limits as necessary.

(ii) The POTW shall update and adjust their limits when necessary to correspond with the pass through limits specified in the most recent NPDES permit or to remain in compliance with the POTW sludge use and disposal practices.

(iii) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

(iv) POTWs may develop Best Management Practices (BMPs) to implement subsections (i) and (ii) of this section. Such BMPs shall be considered local limits and pretreatment standards for the purposes of this rule chapter.

(d) Local limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by the POTW in accordance with subsection (2)(c) of this rule, such limits shall be deemed pretreatment standards for the purpose of this rule chapter.

(e) State enforcement actions. If, within thirty (30) days after notice of an interference or pass through violation has been sent by the approval authority to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, the approval authority may take the appropriate enforcement action under the authority provided in Tennessee Code Annotated § 69-3-115.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) Bypass notifications. (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to and receive written permission from the pretreatment coordinator, at least ten (10) days before the date of the bypass, if possible.

(ii) A user shall submit oral notice to the pretreatment coordinator of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The pretreatment coordinator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. Bypass is prohibited, and the city may take an enforcement action against a user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The user submitted prior notice to and received written permission from the pretreatment coordinator as required under subsection (c) of this section.

The city may approve an anticipated bypass, after considering its adverse effects, if the city determines that it will meet the three (3) conditions listed in subsection (d)(i) of this section. (Ord. #48-17, Sept. 2012)

18-239. <u>Enforcement response plan</u>. The documented plan, entitled, "Enforcement Response Plan for Elizabethton, Tennessee," which is made a part hereof, annexed herewith, and incorporated herein by reference, which contains

the Enforcement Response Plan of the City of Elizabethton, Tennessee, hereby is adopted and declared to be the Enforcement Response Plan for the City of Elizabethton, Tennessee. (Ord. #48-17, Sept. 2012)

18-240. Wastewater regulations appeals board. (1) Establishment and organization. The wastewater regulations appeals board shall consist of three (3) members appointed by the mayor and approved by the city council. The term of each appointee shall be for two (2) years unless designated otherwise by the mayor and the city council. The terms of only two (2) appointees shall coincide at any given interval to promise continuity in the decisions and policies set by the board.

(2) Qualifications of members. The chairman of the board will be a city council member designated by the mayor. The second appointee will be a local citizen selected from the business or industrial community. The third appointee will be a local citizen from the engineering or public health community, preferably one who is knowledgeable in the field of wastewater treatment and control.

(3) Duties and powers. (a) The board shall review actions or decisions other than the refusal of applications for exceptions and/or conditions of discharge permits to determine whether or not the decision, action, or determination made by the city manager is reasonable and necessary to protect the POTW and/or to effectuate the provisions of this chapter. The enforcement response plan may be found in title 18, chapter 3 of this municipal code.

(b) The board shall review actions involving refusal of applications for exceptions and/or conditions on discharge permits to determine whether or not the party appealing said decision has met the conditions prescribed in § 18-223.

(c) The board shall have the power to conduct hearings on appeals from decisions of the city manager in actions taken pursuant to this chapter.

(d) The board shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of evidence relevant to any matter involved in hearings before the board. This power may be exercised by the board on its own initiative or upon application of the parties.

(e) The chairman or chairman pro tem shall be authorized to administer oaths. All testimony before the board shall be under oath.

(f) To prescribe such rules and regulations for the convening of the board and the conduct of hearings and all matters pertaining to and in furtherance of the authority and power herein granted. (Ord. #48-17, Sept. 2012)

18-241. Wastewater rates, fees and charges. (1) Purpose and authority. It is the purpose of this section to provide for the equitable and reasonable recovery of costs from users of the POTW, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants. The legal authority of the city manager to enforce the rates, fees and charges is provided by this chapter.

(2) Types of charges and fees. Fees and charges are payable at a time deemed appropriate by the city manager for the specific charge or fee. The charges and fees established in the city's rate chapters may include, but are not limited to:

(a) Building and sewer permit and inspection fees;

(b) Grease trap and interceptor permits and inspections;

(c) Tapping fees;

(d) Sewer use charges;

(e) Surcharge fees;

(f) Fees for applications to discharge;

(g) Industrial wastewater discharge permit fees;

(h) Fees for industrial discharge monitoring;

(i) Fees for reviewing and responding to accidental discharge procedures and construction;

(j) Fees for filing appeals;

(k) Fees to recover administrative and legal costs associated with the enforcement activity taken by the city manager to address noncompliance;

(l) Fees for hauled waste; and

(m) Other fees as the city manager may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(3) Classification of users for charges and fees. Users of the wastewater system shall be classified into two (2) general classes or categories depending on the user's contribution of wastewater strength. The classes are defined in general terms. The city manager may decide to select the class for a user based on loading conditions not specifically defined. Each class user is identified as follows:

(a) Class I or domestic. Those users whose average BOD demand is two hundred milligrams per liter (200 mg/l) by weight or less, and whose suspended solids discharge is two hundred milligrams per liter (200 mg/l) by weight or less).

(b) Class II or non-domestic. Those users whose BOD demand exceeds two hundred milligrams per liter (200 mg/l) by weight and whose suspended solids discharge exceeds two hundred milligrams per liter (200 mg/l).

(4) Determination of costs. (a) The city shall establish monthly rates and charges for the use of the POTW and the services supplied by the POTW. Said charges shall be based upon the cost categories of administrative costs, including but not limited to, billing and accounting costs; operation and maintenance costs of the POTW; and debt service costs.

(b) The determination of costs will be made on an annual basis. Adjustments to charges and fees may be made at any time in the fiscal year at the discretion of the city manager with the approval of the city council.

(c) All users shall pay a single unit charge expressed as dollars per thousand of gallons ($/1,000.00 gallons) purchased. The rate shall be the total cost to pay debt service, operate, and maintain the POTW divided by the total volume of wastewater from all users per year as determined from one (1) fiscal year to the next.

(d) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the city manager if a user purchases a significant volume of water for consumptive use and does not discharge it to the public sewer such as filling swimming pools, industrial heating and humidifying equipment, etc. The user shall be responsible for documenting the quantity of waste discharged to the POTW and applying for a reduction.

(e) All Class II users shall pay a surcharge rate on the excessive amounts of pollutants discharged in direct proportion to the actual discharge quantities. The surcharges include, but are not limited to, any pollutant that increases the cost of operating and maintaining the POTW. The surcharge cost shall be determined by multiplying the volume of wastewater discharged by the difference between the actual and maximum discharge pollutant concentrations. The pollutant mass discharged is then multiplied by the cost to treat the pollutant.

(5) Other surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the dischargers of such parameters in proportion to the amount of discharge.

(6) Wastewater rate and fee schedule. (a) Free service prohibited. Wastewater service shall not be furnished or rendered free of charge to any person or user, as defined in § 18-241.

(b) Wastewater usage rates.

Wastewater Usage Rate Schedule
Fiscal year July 1, 2023 to June 30, 2024

Cost per 1,000 gallons	Municipal	Regional
Base rate	$19.82	$24.63
0-9,000 gallons	$3.67	$6.88
Over 9,000 gallons	$3.67	$5.01

Wastewater Usage Rate Schedule
Fiscal year July 1, 2024 to June 30, 2025

Cost per 1,000 gallons	Municipal	Regional
Base rate	$21.32	$26.13
0-9,000 gallons	$3.67	$6.88
Over 9,000 gallons	$3.67	$5.01

(c) Tap fees. Each person desiring to tap a public sewer, or any sewer connected with the sewerage system of the City of Elizabethton, shall first obtain a permit therefor, from the city and pay the city fee as hereinafter provided for each tap at the time of the issuance of the permit:

City of Elizabethton
Tap Fee Schedule

Sewer Tap Fee	Municipal	Regional	Incorporated
New residence	$1,400.00	$2,000.00	$2,800.00
New residence within a new subdivision where all lines and taps are installed by the developer per city standards/approval	$600.00	$800.00	$1,000.00
Additional residential units on same lot--connected with existing tap*	$400.00	$650.00	$850.00
Small commercial users, service stations, etc.	$1,400.00	$2,200.00	$3,000.00
Car wash per bay	$1,600.00	$2,200.00	$3,800.00

Sewer Tap Fee	Municipal	Regional	Incorporated
Apartments, mobile home parks, condominiums, multi-dwelling complexes: 50 units or less, per unit	$1,400.00	$2,200.00	$3,000.00
Apartments, mobile home parks, condominiums, multi-dwelling complexes: over 50 units, per unit	$1,000.00	$1,250.00	$2,145.00
Factories (first 10,000 sq. ft. floor space), also shopping centers, warehouses, office buildings, schools, etc.	$1,800.00	$2,400.00	$3,800.00
Each additional 10,000 sq. ft. of floor space	$950.00	$1,400.00	$1,900.00
Hotels, motels, hospitals, nursing homes, retirement homes for each rental room	$900.00	$1,200.00	$2,000.00
Residences which cannot use the available public gravity sewer without the necessity of a sewer pump**	$900.00	$1,200.00	$2,000.00

* Unauthorized taps: If an additional unit on the same lot or connecting lots is found to be connected to the Elizabethton Sewer System without authorization and payment of the above fee, the fee assessed will be double.

**This requires a written evaluation by the water resources division and approval by the city manager. Sewage pumps and tanks must be purchased and installed by the customer. Said pumps and tanks remain the property of the customer and must be maintained by the customer.

(Ord. #51-13, July 2015, as amended by Ord. #53-24, Dec. 2017 ***Ch1_12-13-18***, and Ord. #59-15, June 2023 ***Ch3_02-08-24***)

18-242. Severability and effective date. (1) Severability. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(2) Effective date. This chapter shall be in full force and effect immediately following passage, approval, and publication. (Ord. #48-17, Sept. 2012)

18-243. 2020 COVID-19 authority and response. (1) The City Manager of the City of Elizabethton is hereby authorized to develop any and all policies necessary to assist the customers of the Elizabethton Water Resources Department with late fees, cut off and installation fees and, the cut off of sewer services for the failure to pay a bill to the City of Elizabethton as the City Manager shall determine.

(2) That the Elizabethton City Manager shall have no authority to reduce the bills for the actual amount of wastewater services provided to customers of the City of Elizabethton Water Resources Department.

(3) This ordinance shall take effect immediately and the city manager's authority granted herein shall end on May 31, 2020. (as added by Ord. #56-9, March 2020 ***Ch2_03-11-21***)

CHAPTER 3

ENFORCEMENT RESPONSE PLAN

SECTION

18-301. Purpose.
18-302. Enforcement authority.
18-303. Insignificant and significant noncompliance.
18-304. Notice of violation.
18-305. Schedule of compliance.
18-306. Administrative penalty.
18-307. Administrative orders.
18-308. Penalty assessments.
18-309. Enforcement response table.
18-310. Penalty assessment form.

18-301. Purpose. This enforcement response plan provides for fair and consistent enforcement for pretreatment of wastewater discharged into the Publicly Owned Treatment Works (wastewater collection system and treatment works) of the City of Elizabethton, Tennessee, and enables the city to monitor and assess penalties for noncompliance with the city's Sewer Use Ordinance (SUO). The city's Publicly Owned Treatment Works (POTW) must comply with all applicable state laws, including Tennessee Code Annotated §§ 6-54-501 and 6-54-502; Public Chapter 111, Acts of 1987, amending Tennessee Code Annotated, title 69, chapter 3, part 1; the state pretreatment requirements (Tennessee Rule 1200-4-14); and federal laws, including the Clean Water Act (33 United States Code, section 125, et seq.); and the general pretreatment regulations (title 40 of the Code of Federal Regulations (CFR), page 403). (Ord. #48-18, Sept. 2012)

18-302. Enforcement authority. The city manager shall be responsible for enforcement of the sewer use ordinance. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to a duly authorized designee per § 18-202 of the sewer use ordinance. The wastewater regulations appeals board (SUO § 18-240) has certain oversight responsibilities in the enforcement of the sewer use ordinance. (Ord. #48-18, Sept. 2012)

18-303. Insignificant and significant noncompliance.

(1) Insignificant (minor) noncompliance. Insignificant noncompliance is defined as relatively minor or infrequent violations of pretreatment standards or requirements. Instances of insignificant noncompliance will be responded to with a Notice of Violation (NOV) or an Administrative Order (AO). Examples of

violations that may be addressed as an insignificant or minor noncompliance include, but are not limited to, the following:

(a) Failure to file a permit renewal application but continuing to comply with the expired permit.

(b) A reported spill with no known adverse effects.

(c) Isolated (once per six (6) month period and not in consecutive sampling events) and insignificant excessiveness (not more than 1.5 times the limit) of discharge limits.

(d) Inadvertently using incorrect sample collection procedures.

(e) First instance of failure in a twelve (12) month period to properly sign or certify monitoring reports.

(f) Failure to notify of slug load that has no known adverse effects.

(g) Missed interim or final compliance deadline by less than thirty (30) days.

(h) Filing a late report, including compliance schedule reports, less than thirty (30) days late.

(i) Any other violation that:

(i) Causes no known adverse conditions in the POTW;

(ii) Is deemed insignificant by the city manager; and

(iii) Is not defined as significant noncompliance by the Environmental Protection Agency in the general pretreatment regulations, 40 CFR 403.

(2) Significant noncompliance. The U.S. Environmental Protection Agency (EPA) has defined significant noncompliance as violations that meet one (1) or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed by any magnitude the daily maximum limit, or the average limit, for the same pollutant parameter.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily average maximum limit, or the average limit, multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). BOD, TSS, and FOG are exempt from TRC consideration if they exceed the surcharge level but do not exceed the upper ceiling.

(c) Any other violations of a pretreatment effluent limit (daily maximum or longer-term average) that the city manager or his designee determines has caused, alone or in combination with other discharges, interference or passthrough and/or endangered the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(e) Failure to meet within ninety (90) days after the schedule date a compliance schedule milestone contained in a NOV or an AO for starting construction, completing construction, and attaining final compliance.

(f) Failure to provide, within thirty (30) days after the due date, required reports, such as baseline monitoring reports, ninety (90) day compliance reports, periodic self monitoring reports, and reports on progress or completion with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations that the city manager or his designee determines will adversely affect the operation, management or implementation of the city's pretreatment program.

Generally an isolated instance of noncompliance or a Category 0 violation can result in an informal response or a Notice of Violation (NOV). Any Category 1 to Category 4 violations will result in an enforceable order that requires a return to compliance by a specific deadline. (Ord. #48-18, Sept. 2012)

18-304. Notice of violation. Generally issued by the city manager or his designee, the Notice of Violation (NOV) is an official communication from the city to the noncompliant user that informs the user that the violation has occurred. The NOV is issued for relatively minor or infrequent violations of pretreatment standards and requirements and should be issued within five (5) working days of the identification of a violation. A NOV does not contain assessment of penalties or cost recovery. The NOV provides the user with an opportunity to correct the noncompliance on its own initiative rather than according to a schedule of actions determined by the city. The NOV records the initial attempts of the city to resolve the noncompliance. Authenticated copies of NOVs may serve as evidence in judicial proceedings. (Ord. #48-18, Sept. 2012)

18-305. Schedule of compliance. A schedule of compliance is a detailed list of the steps to be taken by a noncompliant industry whereby compliance with all pretreatment regulations will be achieved. This 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 required for the user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, executing contracts for components, commencing construction, etc.). (Ord. #48-18, Sept. 2012)

18-306. Administrative penalty. An administrative penalty is a monetary penalty assessed by the city for violations of pretreatment standards and requirements. Administrative penalties are to be used as an escalated enforcement action and are punitive in nature and are not related to a specific cost borne by the city. Instead, the amount of the penalty should recapture any economic benefit gained by noncompliance and/or deter future violations. An administrative order is to be used to assess an administrative penalty. (Ord. #48-18, Sept. 2012)

18-307. Administrative orders. Administrative orders are to be issued by the city manager or his designee. Administrative orders are enforcement documents that direct users to undertake and/or to cease specified activities. Administrative orders are to be used as the first formal response to significant noncompliance, and may incorporate compliance schedules, administrative penalties, assessments for costs incurred during investigation and/or enforcement, attorney's fees, assessments for damages and termination services. The city has adopted four (4) general types of AOs: Compliance orders, show cause orders, cease and desist orders, and agreed orders.

(1) Compliance order. A compliance order directs the user to achieve or restore compliance by a specified date and is the primary means of assessing penalties and costs. The compliance order will document the noncompliance and state required actions to be accomplished by specific dates and is issued by the city manager or his designee.

(2) Show cause order. An order to show cause directs the user to appear before the city, explain its noncompliance, and show cause why more severe enforcement action should not be pursued. The hearing is open to the public and may be formal (i.e. conducted according to the rules of evidence, with verbatim transcripts and cross-examination of witnesses) or informal. The results of all hearings along with any data and testimony (recorded by tape machine or stenographer) submitted as evidence, are available to the public and may serve as evidentiary support for future enforcement actions.

(3) Cease and desist order. A cease and desist order directs a noncompliant user to cease illegal or unauthorized discharge immediately or to terminate discharge altogether. To preserve the usefulness of this order in emergency situations, penalties should not be assessed in this document. A cease and desist order will be used in situations where the discharge is causing interference, pass through, environmental harm, or otherwise creating an emergency situation. The order may be issued immediately upon discovery of an emergency situation or following a hearing. In an emergency, the order to cease and desist may be given by telephone with a subsequent written order to be served by the city before the close of business on the next working day. If the user fails to comply with the order, the city may take independent action to halt the discharge.

(4) Agreed order. The agreed order is an agreement between the city and the user. The agreed order normally contains three (3) elements:

(a) Compliance schedules with specific milestone dates;

(b) Stipulated penalties, damages, and/or remedial actions; and

(c) Signature by the city manager and the user representative.

An agreed order is appropriate when the user assumes the responsibility for its noncompliance and is willing to correct the causes. (Ord. #48-18, Sept. 2012)

18-308. Penalty assessments. Determining a penalty amount that reflects the significance of the violation is extremely important. If the penalty is too small, its deterrent value is lost and the user may regard the amount as a nominal charge to pollute. If the penalty is too great, it could bankrupt the user making necessary investment in pretreatment equipment impossible or potentially forcing unnecessary closure. The city has categorized the various types of violations, and assigned a penalty range to each category. Penalty categories are determined by using the attached Enforcement Response Table (Appendix A).[1] All penalty assessments will be approved and signed by the city manager or his designee. Penalty amounts determined by following the penalty assessment form are considered to be an economic deterrent to the illegal activity. Penalty ranges have been designed to recover any economic benefit gained by the violator through noncompliance.

Category 0 = No penalty

Category 1 = $1.00 to $500.00

Category 2 = $1.00 to $1,000.00

Category 3 = $1.00 to $10,000.00

Category 4 = Direct legal action

Any penalties and/or costs to be assessed at the maximum penalty allowable by applicable law and included as part of the legal action.

Assessments for damages or destruction of the facilities of the POTW, and any penalties, costs, and attorney's fees incurred by the city as the result of the illegal activities, as well as the expenses involved in enforcement, are not part of this penalty assessment procedure. (Ord. #48-18, Sept. 2012)

18-309. Enforcement response table. The Enforcement Response Table is used as follows:

(1) Locate the type of noncompliance in the first column and identify the most accurate description of the violation in the second column.

(2) Assess the appropriateness of the recommended response(s) in the third column. Use the penalty assessment form to determine any penalty amounts, using the criteria of:

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[1]The Enforcement Response Table is included in § 18-310 as appendix A of that section.

(a) Magnitude of the noncompliance;

(b) Effects on the receiving stream and the Publicly Owned Treatment Works (POTW);

(c) Compliance history of the user; and

(d) Good faith of the user.

(3) Apply the enforcement response to the user specifying corrective actions, penalty amounts and/or other actions required of the user. The fourth column identifies the responsible personnel for the city.

(4) Track the user's response and compliance status and follow up with escalated enforcement action if a response is not received or violation continues.

(5) The knowledge, intent, and/or negligence of the user should not be taken into consideration, except when deciding to pursue criminal prosecution. (Ord. #48-18, Sept. 2012)

18-310. Penalty assessment form. (1) Locate the type of noncompliance in the Enforcement Response Table (e.g., Discharge Limit; Monitoring; Compliance; Other, etc.).

(2) Select the most accurate description of "Nature of Violation."

(3) Identity the corresponding Penalty Category and write it in the space provided below.

(4) Evaluate the appropriateness of the recommended response(s) using the criteria of: **Magnitude, Effects, Compliance History, and Good Faith.** Assign a numerical value from between 0.0 to 1.0 to each criterion (in increments of 0.1) and write in the appropriate space below.

(5) Average the **FOUR** (4) criteria ratings to obtain an AVERAGE CRITERION RATING and enter it into the space provided.

(6) Multiply the Average Criterion Rating by the maximum penalty amount allowed in the applicable penalty category selected in Step Three (3).

(7) Multiply the penalty amount by the number of violation days (e.g. monthly limit, multiply by 30).

USERS NAME: _____ PARAMETER: _____

PERMIT LIMIT: _____ OBSERVED CONC: _____ PERMIT # _____

LIMIT TYPE: _____ (Daily, Monthly, etc.) DATE OF VIOLATION _____

CATEGORY OF THIS VIOLATION _____

Magnitude 0.1 0.2 0.3 0.4 0.5 0.6 0.7 0.8 0.9 1.0 _____

This criterion considers the severity of the discharge. Magnitude is determined by assigning 0.1 to the lowest violation factor of the category and 1.0 to the highest violation factor of the category and then determining where the violation falls within the range.

Effects 0.1 0.2 0.3 0.4 0.5 0.6 0.7 0.8 0.9 1.0 _____

This criterion considers the effects of the discharge upon the quality of the receiving waters as well as adverse physical and operational effects experienced by the POTW. The Effects Rating is a subjective determination within the following guidelines. (no effect = 0.0; slight effect = 0.1--0.3; moderate effect = 0.4--0.6; heavy effect = 0.7--0.9; severe effect or damage = 1.0).

Compliance History

This rating will generally follow the number of NOV's issued in the past fifteen (15) months (TRC and/or Chronic violations are factors in determination) (i.e.: no violations = 0.0; NOVs = 0.5)

Good Faith

"The Clean Water Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and in many cases expensive pollution control measure must be initiated and completed as promptly as possible." Therefore the criteria of "Good Faith" should consider the speed and effectiveness of actions taken by the violator to cease or reduce the magnitude of the violation. Prompt, vigorous response = 0.0; Reluctant, minimal response = 0.5; No response/continued violation = 1.0

SUM _____

= AVERAGE CRITERIA RATING = (**Sum/4**) _____

= **PENALTY AMOUNT (A.C.R. X Category Maximum)** = ____ x ____=____

(Ord. #48-18, Sept. 2012)

CHAPTER 4

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-401. Definitions.
18-402. Standards.
18-403. Construction, operation, and supervision.
18-404. Statement required.
18-405. Inspections required.
18-406. Right of entry for inspections.
18-407. Use of protective devices.
18-408. Correction of deficiencies and violations.
18-409. Non-potable water to be labeled.
18-410. Applicability of chapter.
18-411. Severability.
18-412. Violations and penalty.
18-413.--18-414. Deleted.

18-401. Definitions. For the purpose of this chapter, words used in the singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

For the purpose of this chapter, the following definitions shall apply:

(1) "Air gap." A physical separation between the free flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel.

(2) "Approved air gap." An air gap separation with a minimum distance of at least twice the diameter of the supply line when measured vertically above the overflow rim of the vessel, but in no case less than one inch (1").

(3) "Approved." Any condition, method, device, or procedure accepted by the Tennessee Department of Environment and Conservation, and City of Elizabethton.

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[1]Municipal code references

Plumbing code: title 12, chapter 2.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(4) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any sources other than from the public water system.

(5) "Backflow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a potable water system from any source.

(6) "Backpressure." A pressure in the downstream piping that is higher than the supply pressure.

(7) "Backsiphonage." Negative or sub-atmospheric pressure in the supply piping.

(8) "Backflow prevention assembly." An approved assembly designed to prevent backflow.

(9) "Bypass." Any system of piping, or other arrangement, whereby water may be diverted around a backflow prevention assembly, meter, or other public water system controlled device.

(10) "Certified backflow inspector." An individual who possesses a valid certificate of competency in testing and evaluation of backflow prevention assemblies issued by the Tennessee Department of Environment and Conservation.

(11) "City." The City of Elizabethton, Tennessee; Elizabethton Water Resources Department.

(12) "City manager." The manager of the City of Elizabethton or his/her designee, who is responsible for the implementation of the provisions of this chapter.

(13) "Contamination." The introduction or admission of any foreign substances that may cause illness or death.

(14) "Contaminant." Any substance introduced into the public water system that may cause illness or death.

(15) "Cross-connection." Any physical arrangement whereby public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality, which may be capable of contaminating the public water supply as a result of backflow caused by the manipulation of valves; because of ineffective check valves, backpressure valves, or any other arrangement.

(16) "Customer." Any person, business, industry, or governmental entity that obtains water, by purchase or without charge, from the water provider.

(17) "Direct cross-connection." An actual or potential cross-connection subject to backsiphonage and backpressure.

(18) "Failed" The status of a backflow prevention assembly as determined by a performance evaluation based on the failure to meet any of the minimums set forth by the approved testing procedure.

(19) "Hazard, degree of." A term derived from evaluation of the potential risk to public health and the adverse effect of the hazard upon the public water system.

(20) "Hazard, health." A cross-connection or potential cross-connection involving any substance that could, if introduced to the public water supply, cause death, illness, and spread disease; also known as a high hazard.

(21) "Hazard, plumbing." A cross-connection in a customer's potable water system plumbing that is not properly protected by an approved air gap or backflow prevention assembly.

(22) "Industrial fluid." Any fluid, suspension, or solution that may chemically, biologically, or otherwise contaminate or pollute in a form or concentration that could constitute a hazard if introduced into the public water supply.

(23) "Inspection." An on-site evaluation of an establishment to determine if backflow prevention assemblies are needed by the customer to protect the public water system from actual or potential cross-connections.

(24) "Interconnection." Any system of piping or other arrangement whereby public water supply is connected directly with a sewer, drain, conduit, or other non-potable water device.

(25) "Nontoxic." Not poisonous; a substance that cannot cause illness or discomfort if ingested.

(26) "Owner" or "property owner." The legal owner of the property as recorded in the Register of Deeds Office for Carter County, Tennessee, including a lessee, guardian, receiver or trustee, operator of a business, or the said person's duly authorized agent.

(27) "Parallel devices." Two (2) backflow prevention devices located adjacent to one another with approved plumbing and installed in such a way to keep water from being shut off during repair or replacement of a single device.

(28) "Passed." The status of a back:flow prevention assembly as determined by a performance evaluation in which the assembly meets all minimums set forth by the approved testing procedure.

(29) "Performance evaluation." An evaluation of an approved Reduced Pressure Principle Assembly (including approved detector assemblies) using the latest approved testing procedures in determining the status of the assembly.

(30) "Person." Any individual, firm, corporation, partnership, association, organization, entity, including governmental entities, or any combination thereof.

(31) "Pollutant." A substance in the public water system that could constitute a hazard of any degree or could be aesthetically objectionable if introduced into the public water supply.

(32) "Pollution." The presence of a pollutant or substance in the public water system that degrades its quality so as to constitute a hazard of any degree.

(33) "Potable water." Water that is safe for human consumption as prescribed by the Tennessee Department of Environment and Conservation an Elizabethton Water Resources.

(34) "Public water supply." Elizabethton Water Resources or any other entity that furnishes potable water for general use and which is recognized as a public water supply by the Tennessee Department of Environment and Conservation.

(35) "Public water system." Elizabethton Water Resources or any other water system furnishing water to the public for general use which is recognized as a public water supply by the State of Tennessee.

(36) "Reduced Pressure Principle Assembly or Reduced Pressure Zone Backflow Preventer ("RP" or "RPZ")." An Assembly consisting of two (2) independently acting approved check valves together with hydraulically operating, mechanically independent, pressure differential relief valves located between the check valves and downstream from the first check valve. These units exist as an assembly equipped with resilient seated test cocks, located between two (2) tightly closing resilient seated shut-off valves.

(37) "Reduced pressure principle detector assembly." A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a bypass containing a water meter and approved reduced pressure principle backflow prevention assembly specifically designed for such application.

(38) "Service connection." The point of delivery to the customer's water system; the terminal end of a service connection from the public water system where water resources loses direct control over the water. "Service connection" includes connections to fire hydrants and all temporary or emergency water service connections made to the public water system.

(39) "State." The State of Tennessee, Tennessee Department of Environment and Conservation.

(40) "Survey." An evaluation of a premises by a water system performed for the determination of actual or potential cross-connection hazards and the appropriate backflow prevention needed.

(41) "Water system." The water system operated, whether located inside or outside the corporate limits of the City of Elizabethton, shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility System shall consist of the facilities for the production, treatment, storage, and distribution of water, and shall include all those facilities of the water system under the complete control of Elizabethton Water Resources, up to the point where the customer's system begins downstream of the water meter.

(b) The Customer System shall include those parts of the facilities beyond the termination of Elizabethton Water Resources' distribution system. (2000 Code, § 18-401, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-402. Standards. Elizabethton Water Resources must comply with Tennessee Code Annotated, § 68-221-711, as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective, ongoing program to control these undesirable water uses. (2000 Code, § 18-402, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross-connection, auxiliary intakes, bypass or interconnection is at all times under the direct supervision of the city manager. (2000 Code, § 18-403, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in a reservoir from which the water stored therein is circulated through a piping system, shall file a statement with the city manager. The statement shall declare that there are no unapproved or unauthorized auxiliary intakes, bypasses, or interconnections and shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection shall be permitted upon the premises. (2000 Code, § 18-404, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-405. Inspections required. (1) It shall be the duty of Elizabethton Water Resources to inspect all properties served by the public water supply where cross-connections are deemed possible. The city manager shall establish the frequency of inspections and re-inspections based on potential health hazards to the City of Elizabethton Public Water Supply and as approved by the Tennessee Department of Environment and Conservation.

(2) The City of Elizabethton may contract with a licensed inspection company employing certified backflow inspectors to conduct annual testing of all backflow prevention devices. When devices fail, it shall be the customer's responsibility to repair or replace and have the assembly retested by a city approved inspector. Customers who are required to test annually may be assessed a fee to cover the cost of inspection services.

(3) All inspectors shall be approved by the State of Tennessee and the City of Elizabethton. Before conducting an inspection, inspectors shall have up-to-date state and test kit calibration certifications on file with the city. Inspectors are responsible for submitting inspection reports to the city within ten (10) days pf inspection. Copies of reports shall also be left with the customer.

(a) Reports shall clearly indicate whether the device passed or failed and shall include: inspector's name, signature, and certification number; name and address of premises; device location, size, manufacturer, type, serial number, and full model number; date of inspection; test values; and comments.

(b) If an existing device is being replaced, the original serial number shall be listed under the new device serial number with the word "old" labeled beside it. If the device serial number and model number cannot be :verified, the device shall be replaced.

(4) All new devices shall be inspected at installation. All devices for new construction shall be inspected prior to the issuance of a certificate of occupancy. Existing devices shall be inspected at a minimum once every twelve (12) months and shall not exceed ninety (90) days beyond their anniversary date.

(5) If an inspector fails to comply with the city's inspection criteria or is knowingly falsifying information, the inspector shall have all privileges suspended and shall not be allowed to test backflow assemblies in the City of Elizabethton or its facilities. Length of suspension is at the discretion of the city manager. Lack of compliance may result in the inspector being taken off the city's approved list and notification being sent to the State of Tennessee. (2000 Code, § 18-405, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-406. Right of entry for inspections. The city manager shall have the right to enter at any reasonable time, any property, connected to the City of Elizabethton public water supply for the purpose of inspecting the piping system pr systems thereof for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal to provide such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections, thereby subjecting the premises to the penalties and enforcement as defined under this chapter. (2000 Code, § 18-406, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-407. Use of protective devices. (1) Where any of the following conditions exist, the city manager shall require the use of an approved protective device on the line serving the premises to assure that any contaminant that may originate in the customer's premises is contained therein:

(a) An effective air-gap separation cannot be provided,

(b) The owner and/or occupant of the premises cannot demonstrate to the city that the water use and protective features of the plumbing are such as to pose no threat to the safety of the public water supply,

(c) The nature and mode of operation within a premise are such that frequent alterations are made to the plumbing.

(d) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The protective device shall be a Reduced Pressure Zone back-flow preventer (RPZ) approved by the Tennessee Department of Environment and Conservation and the City of Elizabethton.

(2) The method of installation ofback-flow protective devices shall be approved by the city manager prior to installation and shall meet or exceed the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

(a) All RPZs shall be installed in a horizontal position with the relief port down. Exception: existing fire lines that require a change out with major reconstruction of plumbing may be a vertical installation as long as the device and installation is approved by the City of Elizabethton in writing.

(b) Strainers shall be installed ahead of the device. No strainer is to be used in a fire line without the written approval of the fire official having jurisdiction.

(c) RPZs shall never be installed in a pit or other area that could flood. RPZs shall have protection from freezing and vandalism. RPZs shall be installed where they are easily accessible for testing and maintenance.

(d) All devices shall be at least three (3) times the pipe diameter from wall, a minimum of twelve inches (12") above the floor, and a maximum height of sixty inches (60") from floor level.

(e) The RPZ shall have a drain adequate to keep the area from flooding. The relief valve shall never be plugged, and a device shall be installed with an air gap if a drain system is connected to the relief port.

(f) All strainers, pressure reducers, valves, and shutoffs pertaining to the back-flow assembly shall meet the installation requirements set forth by the State of Tennessee, the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, and the City of Elizabethton.

(3) Duplicate parallel devices shall be required to avoid the necessity of discontinuing water service to test or repair the protective device or devices where the use of water is critical to the continuance of normal operations or protection of life, health, property, or equipment. If it is found that only one (1) unit has been installed and the continuance of service is critical, the city manager shall notify, in writing, the occupant of the premises that parallel devices shall be required for future testing.

(4) Residential and commercial fire service lines shall require a reduced pressure principal detector assembly to be installed. The device meter

shall register accurately for very low flow rates of flows up to three (3) gallons per minute an shall show registration for all flow rates.

(5) Fire lines and systems containing contaminants or industrial fluids shall not be connected to the public water supply and this condition shall not be mitigated by the use of protective devices under this chapter. (2000 Code, § 18-407, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-408. Correction of deficiencies and violations. Following an inspection where deficiencies or violations are identified, the following time frames shall apply:

(1) Backflow prevention assemblies shall be replaced or repaired in accordance with the type of hazard and the possibility of contamination. Hazard and level of hazard shall be determined by Water Resources personnel.

(a) High risk premises shall be allowed a maximum of up to seven (7) days to have the assembly rebuilt or replaced, and re-tested.

(b) All high hazard premises that pose an immediate or imminent risk of contamination shall have assemblies repaired and retested immediately.

(c) Where plumbing hazards are present and there is no immediate risk of cross-connections and/or an imminent risk of contamination, failed devices shall be repaired and retested within thirty (30) calendar days and shall not exceed a maximum of ninety (90) days.

(2) Following failure of an inspection, the certified inspector shall notify Water Resources immediately for a high hazard, and within forty-eight (48) hours for all other hazards. A written plan of action shall also accompany notification which shall include: date of notification; name and address of premises; device model, size, and manufacturer; timetable for repair or replacement of the assembly; and recommendations for any other action necessary to be taken. All costs associated with inspections, including repairs or replacement, shall be the responsibility of the property owner or occupant.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits set by this code shall be grounds for denial of water service. If, after the specified time, proper protection has not been provided against a high hazard, water service shall be discontinued immediately. If proper protection has not been provided after the designated time for all other hazards, the city shall give the customer legal notification that water service is to be discontinued, and physically separate the public water supply from the customer's on-site piping system in such a manner that the two (2) systems cannot be reconnected by an unauthorized person.

(4) Where cross-connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard by posing an immediate concern of contaminating the public water system, the city manager shall require immediate corrective action to be taken to eliminate the threat. This

action includes the disconnection of the public water supply from the on-site piping system in the event that the imminent hazards cannot be corrected immediately. (2000 Code, § 18-408, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-409. Non-potable water to be labeled. The potable water supply made available to premises served by Elizabethton Water Resources is protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by Elizabethton Water Resources shall be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

Minimum acceptable signs shall have black letters at least one inch (1") high located on a brightly colored or white background, outlined in red. (2000 Code, § 18-409, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-410. Applicability of chapter. The requirements contained herein shall apply to all premises served by Elizabethton Water Resources whether located inside or outside the corporate limits, and are a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Elizabethton corporate limits. (2000 Code, § 18-410, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-411. Severability. (1) Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable.

(2) If any provisions of this chapter and any other provisions of the law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (2000 Code, § 18-412, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-412. Violations and penalties. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of misdemeanor and, upon conviction thereof, shall be fined not less than ten dollar ($10.00) nor more than fifty dollars ($50.00), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fine and penalties, the city manager of the City of Elizabethton, shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake,

bypass, or interconnection, has been discontinued. (2000 Code, § 18-413, as replaced by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

18-413.--18-414. <u>Deleted</u>. (2000 Code, §§ 18-414, 18-411, as deleted by Ord. #58-18, May 2018 ***Ch1_12-13-18***)

CHAPTER 5

STORMWATER DISCHARGE CONTROL

SECTION

18-501. Purpose.
18-502. Definitions.
18-503. Illicit discharges.
18-504. Elimination of discharges or connections.
18-505. Notification of spills.
18-506. Enforcement.

18-501. Purpose. It is the purpose of this chapter to:

(1) Protect, maintain, and enhance the environment of the City of Elizabethton and the public health, safety and general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(2) Maintain and improve the quality of the receiving waters into which stormwater runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

(3) Enable the City of Elizabethton to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges. (2000 Code, § 18-501)

18-502. Definitions. For the purposes of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

(1) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) "City." The City of Elizabethton , Tennessee.

(3) "Containment." Any physical, chemical, biological, or radiological substance or matter in water.

(4) "Director." The public works director of the city or his/her designee, who is responsible for the implementation of the provisions of this chapter.

(5) "Discharge." To dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any non-stormwater solid or liquid matter into the municipal separate storm sewer system.

(6) "Illicit connections." Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(7) "Municipal Separate Storm Sewer System (MS4)." The conveyances owned or operated by the municipality for the collection and transportation of stormwater, including but not limited to, the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(8) "National Pollutant Discharge Elimination System (NPDES) permit." A permit issued pursuant to 33 U.S.C. 1342.

(9) "Pollutant." Sewage, industrial wastes, other wastes or materials (liquids or solids).

(10) "Stormwater runoff (also called stormwater)." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

(11) "Surface water." Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(12) "TDEC." The Tennessee Department of Environment and Conservation.

(13) "Waters" or "waters of the state." Any and all waters, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters. (2000 Code, § 18-502)

18-503. Illicit discharges. (1) Applicability. This section shall apply to any discharge entering the municipal separate storm sewer system that is not composed entirely of stormwater.

(2) Prohibition of illicit discharges. (a) No person shall introduce or cause to be introduced into the municipal separate storm system any discharge that is not composed entirely of stormwater. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited.

(b) Exceptions. Uncontaminated discharges from the following sources are permitted:

(i) Landscape irrigation or lawn watering with potable water or water from a natural surface water source;

(ii) Diverted stream flows permitted by the State of Tennessee;

(iii) Rising groundwater;

(iv) Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;

(v) Pumped groundwater;

(vi) Foundation or footing drains;

(vii) Water discharged from crawl space pumps;

(viii) Air conditioning condensate;

(ix) Springs;

(x) Individual noncommercial residential washing of vehicles; or vehicle washing for a charity, non-profit fundraising or similar noncommercial purpose;

(xi) Flows from natural riparian habitat or wetlands;

(xii) Swimming pools (if dechlorinated--typically less than one (1) part per million chlorine);

(xiii) Street wash waters resulting from normal street cleaning operations;

(xiv) Discharges resulting from emergency fire fighting activities;

(xv) Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;

(xvi) Discharges necessary to protect public health and safety, as specified in writing by the city;

(xvii) Discharges related to de-icing operations;

(xviii) Dye testing permitted by the city; and

(xix) Discharges resulting from emergency public utility repair activities for breaks in water and sewer lines, discharges from water line flushing and blow-offs.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance, and continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitations, 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. (2000 Code, § 18-503)

18-504. Elimination of discharges or connections. (1) Any person, owner or operator responsible for a property or premises, which is the source of an illicit discharge, shall be required to implement, at the person's expense, the best management practices necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(2) Any person responsible for a property or premises where an illicit connection is located shall be required, at the person's expense, to eliminate the connection to the municipal separate storm sewer system.

(3) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. (2000 Code, § 18-504)

18-505. Notification of spills. (1) 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 of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater and/or the municipal separate stormwater system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(2) In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. The person shall notify the director in person or by telephone or facsimile no later than the next business day.

(3) In the event of a release of non-hazardous materials, the person shall notify the director in person or by telephone or facsimile no later than the next business day.

(4) Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the director within three (3) business days of the telephone notice.

(5) 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 five (5) years. (2000 Code, § 18-505)

18-506. Enforcement. (1) Authority. (a) The director shall have the authority to issue notices of violation and citations.

(b) The director may require reports or records from the permittee or person responsible for eliminating the illicit discharge or illicit connection to insure compliance.

(2) Inspections by the city. (a) The director shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this chapter.

(b) The owner/operator of any facility, operation, or residence where an illicit discharge or illicit connection is known or suspected shall allow the director or his/her authorized representative to have access to and copy at reasonable times, any applicable state or federal permits

related to the suspected or known discharge or connection, or any reports or records kept as a condition of this chapter.

(c) Failure on the part of an owner or operator to allow such inspections by the director shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(3) Enforcement, penalties and liability. (a) Any person in violation of this chapter shall be subject to a civil penalty, stop work order, withholding of a certificate of occupancy, and civil damages.

(b) In order to gain compliance, the director may notify other city departments to deny service to the property until the site, facility, activity and/or residence has been brought into compliance with this chapter.

(c) Any person who violates any provisions of this chapter may also be liable to the city in a civil action for damages.

(d) The remedies provided for in this chapter are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

(e) Neither the approval of a discharge under the provisions of this chapter nor compliance with the conditions of such approval shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

(f) The City of Elizabethton, pursuant to Tennessee Code Annotated § 68-221-1106, hereby declares that any person who violates this chapter is subject to a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000.00) per day for each day of violations. Each day of violation constitutes a separate violation.

(g) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator from the violation;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the City of Elizabethton; and

(vi) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(h) The City of Elizabethton may also assess damages proximately caused by the violator to the city which may include any

reasonable expenses incurred in investigating and enforcing violations of this chapter or any actual damages caused by the violation.

(i) Appeal from any assessment of civil penalty or damages or both shall be to a three (3) member panel comprising the director, the city attorney, and the city council member who represents the City of Elizabethton Regional Planning Commission. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the director within thirty (30) days after the damage assessment or civil penalty is served upon the violator, either personally or by certified mail, or return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the director shall be deemed consent to the damage assessment or civil penalty and shall become final.

(j) Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (2000 Code, § 18-506)

CHAPTER 6

STORMWATER AND WATER QUALITY ISSUES

SECTION

18-601. General provisions.
18-602. Definitions.
18-603. Authority.
18-604. Water quality management.
18-605. NPDES permits.
18-606. Record drawings/design certification.
18-607. Inspections and maintenance.
18-608. Permit controls and stormwater system integrity.
18-609. Severability.
18-610. Responsibility
18-611. Penalties.

18-601. General provisions. (1) Purpose. It is the purpose of this chapter to:

(a) Apply to all areas located within the jurisdiction of the City of Elizabethton, Tennessee.

(b) Protect, maintain, and enhance the environment of the City of Elizabethton and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the public storm water system, with the intent of maintaining and improving the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(c) Enable the City of Elizabethton to comply with the National Pollutant Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges.

(d) Allow the City of Elizabethton to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater control measures and best management practices, they have the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater control measures and best management practices in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute;

(iii) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for water quality management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of stormwater control measures;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administration. The city manager and the staff under the city manager's supervision shall administer the provisions of this chapter. (2000 Code, § 18-601, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-602. Definitions. For purposes of this chapter, words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

For the purpose of this chapter, the following definitions shall apply:

(1) "Best Management Practices (BMP or BMPs)" - Schedules of activities, prohibitions of practices, maintenance procedures, stormwater control measures, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States.

(2) "CFR" - Code of Federal Regulations.

(3) "Channel" - A natural or man-made watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

(4) "City" - City of Elizabethton, Tennessee.

(5) "City manager" - The City Manager of the City of Elizabethton, Tennessee, or their designee.

(6) "Construction" - Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(7) "Development" - Any land change that alters the hydrologic or hydraulic conditions of any property. Often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other

services such as parking facilities, stormwater control measures, best management practices, and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(8) "Development plan" - Detailed engineered/architectural drawing(s) of a commercial, industrial, institutional, or residential development project, showing existing site conditions and proposed improvements with sufficient detail (e.g. technical reports, specifications, survey) for city review, approval, and then subsequent construction. The contents of a development plan are further defined by the Elizabethton Regional Planning Commission, the city zoning ordinance, subdivision regulations, building code and other city departmental standards for constructing developments and public works projects.

(9) "Existing stormwater facility" - Any existing structural feature that slows, treats, filters, or infiltrates runoff after a rainfall event.

(10) "Hotspot" - An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

(11) "Lake" - An inland body of standing water, usually of considerable size.

(12) "NPDES" - National Pollutant Discharge Elimination System. NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

(13) "Owner" or "property owner" - The legal owner of the property as recorded in the Register of Deeds office for Carter County, Tennessee, including a lessee, guardian, receiver or trustee, operator of a business, and the said person's duly authorized agent.

(14) "Person" - Any individual, firm, corporation, partnership, association, organization, or entity, including governmental entities, or any combination thereof.

(15) "Pond" - An inland body of standing water that is usually smaller than a lake.

(16) "Redevelopment" - The improvement of a lot or lots that have been previously developed.

(17) "Sediment" - Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

(18) "Stormwater" - Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

(19) "Stormwater Control Measures (SCM or SCMs)" - Non-structural land development design strategies and structural stormwater facilities

intended to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment.

(20) "Stream" - For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

(a) Is regulated by the city as a Special Flood Hazard Area (SFHA); or

(b) Is, or has been, identified by the city, the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

(21) "Structure" - Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports and walls.

(22) "TMDL" - Total Maximum Daily Load. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(23) "Transporting" - Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(24) "Vegetated buffer" - A use-restricted vegetated area that is located along the perimeter of streams, ponds, lakes, or wetlands, containing vegetation and grasses.

(25) "Water quality SCM manual (SCM Manual)" - A document prepared and maintained by the city which contains policies, design standards and criteria, technical specifications and guidelines and other supporting documentation to be used for implementation of the provisions of this chapter.

(26) "Water quality SCM maintenance manual" - A document prepared and maintained by the city which contains requirements and guidelines for inspection and maintenance of stormwater control measures to be used for implementation of the
provisions of this chapter.

(27) "Water quality management plan" - An engineering plan for the design of stormwater control measures and best management practices within a proposed development or redevelopment. The water quality management plan includes a map showing the extent of the land development activity and location of SCMs and BMPs, design calculations for SCMs and BMPs, and may contain record drawings, certifications, and other supporting materials for SCMs and BMPs.

(28) "Water quality volume reduction" - A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality

volume reductions can only be obtained when specific guidelines presented in the water quality SCM manual are met.

(29) "Water quality volume reduction areas" - Areas with the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(30) "Wetland" - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service. (2000 Code, § 18-602, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-603. Authority. (1) The city manager is authorized to adopt additional policies, criteria, specifications and standards for the proper implementation of the requirements of this chapter in a water quality SCM manual and water quality SCM maintenance manual. The policies, criteria and requirements of both manuals shall be enforceable, consistent with other provisions of this chapter.

(2) The city manager shall have the authority to prepare, or have prepared, master plans for drainage basins and to establish regulations, or direct capital improvements to carry out said master plans.

(3) In the event that the city manager determines that a violation of any provision of this chapter has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the city manager may issue a notice of violation to the permittee or property owner and/or any other person or entity having responsibility for construction work performed at a site development. (2000 Code, § 18-603, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-604. Water quality management. (1) General requirements.

(a) Owners of land development activities not exempted under § 18-604(3) herein must submit a water quality management plan. The water quality management plan shall be submitted as part of the development plan.

(b) The water quality management plan shall include the specific required elements that are listed and/or described in the water quality SCM manual. The city manager may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(c) The water quality management plan shall be subject to any additional requirements set forth in the subdivision regulations, zoning ordinances, or other city ordinances and regulations.

(d) Water quality management plans shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the plan that require hydraulic or hydrologic calculations and design shall be prepared and stamped by a licensed professional competent in civil and site design and licensed to practice in the State of Tennessee.

(e) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved water quality management plan without prior approval of a plan amendment by the city manager.

(f) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the city manager during the course of grading or construction that the approved plan is inadequate.

(g) The water quality management plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction.

(h) SCMs, BMPs, vegetated buffers and water quality volume reduction areas shall be placed into a permanent water quality easement that is recorded with the deed to the parcel and held by the city.

(i) A maintenance right-of-way or easement, having a minimum width of twenty feet (20') shall be provided to all structural SCMs from a driveway, public road or private road. This requirement may be applied to BMPs, vegetated buffers, and water quality volume reduction areas at the discretion of the city manager.

(j) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in § 18-604(2) of this chapter in order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots or areas where the city manager has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(k) The city manager may waive or modify any of the requirements of § 18-604(4) of this chapter if adequate water quality

treatment and channel protection are suitably provided by one (1) or more downstream or shared offsite SCMs or BMPs, or if engineering studies determine that installing the required SCMs or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(l) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. However, where the provisions of this chapter and another regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the city manager be advised of any such regulatory conflicts upon submittal of the water quality management plan.

(2) Design criteria. (a) Owner(s) of developments or redevelopments that must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(i) Stormwater runoff site must be treated for water quality prior to discharge from the development or redevelopment site in accordance with the stormwater treatment standards and criteria provided in the water quality SCM manual.

(ii) The treatment of stormwater runoff shall be achieved through the use of one (1) or more SCMs and/or BMPs that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in the water quality SCM manual.

(iii) Methods, designs or technologies for SCMs or BMPs that are not provided in the water quality SCM manual may be submitted for approval by the city manager if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality SCM manual and this chapter. Certification of pollutant removal efficiency of an SCM or BMP by an independent agency, as identified in the water quality SCM manual, may be required.

(iv) SCMs and BMPs shall not be installed within public rights-of-way or on public property without prior approval of the city manager.

(b) Owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality SCM manual.

(c) Owners of developments or redevelopments that must submit a water quality management plan shall establish, protect, and maintain a vegetated buffer along streams, ponds, lakes and wetlands

located therein in accordance with the policies, criteria, and guidance set forth in the water quality SCM manual. Exemptions from this requirement are as follows:

(i) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes or wetlands.

(ii) Vegetated buffers are not required around SCMs or BMPs that are designed, constructed, and maintained for the purposes of water quality and/or quantity (i.e., stormwater drainage) control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality SCM manual.

(d) Additional requirements for vegetated buffers.

(i) All areas of the vegetated buffer shall be left in a stabilized condition upon completion of construction. Placement of riprap and other hard armor in buffer areas is allowed only when vegetated stabilization alternatives are not feasible.

(ii) Overland stormwater discharges to the vegetated buffer must enter the buffer as sheet flow where site conditions allow.

(e) In addition to the above requirements, all owners of developments or redevelopments that must submit a water quality management plan shall:

(i) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the city;

(ii) Control stormwater drainage and provide peak discharge/volume control in accordance with the ordinances and regulations of the city;

(iii) Adhere to all local floodplain development requirements in accordance with the ordinances and regulations of the city.

(3) Exemptions. (a) Owners of developments and redevelopments who conform to the criteria in § 18-604(3)(c) are exempt from the requirements of § 18-604 and § 18-606 of this chapter, unless the city manager has determined that treatment of stormwater runoff for water quality is needed in order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(b) The exemptions listed in § 18-604(3)(c) shall not be construed as exempting these owners of developments and redevelopments from compliance with stormwater requirements stated in other sections of this chapter, and in the subdivision regulations, zoning ordinance, or other city ordinances and regulations.

(c) The following developments and redevelopments are exempt from the requirements for a water quality management plan:

(i) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would disturb one (1) acre or more, and the storm water runoff from the development or redevelopment is not treated for water quality via a downstream or regional SCM or BMP that meets the requirements of this chapter;

(ii) Minor land disturbing activities such as residential gardens and residential or nonresidential repairs, landscaping, or maintenance work;

(iii) Individual utility service connections, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(iv) Installation, maintenance or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(v) Installation of posts or poles;

(vi) Farming activities;

(vii) Emergency work to protect life, limb, or property, and emergency repairs.

(4) Performance bonds. (a) A performance bond which guarantees satisfactory completion of construction work related to SCMs, channel protection, and/or the establishment of vegetated buffers may be required.

(b) Performance bonds shall name the City of Elizabethton, Tennessee, as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the city manager. The actual amount shall be based on submission of plans and estimated construction, installation, or potential maintenance and/or remediation expenses.

(c) The city manager may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.

(5) Special pollution abatement requirements. (a) At the discretion of the city manager, a special pollution abatement plan may be required for proposed developments and redevelopments that may have the potential

to discharge highly contaminated runoff with concentrations of pollutant in excess of those typically found in storm water.

(b) When required, the special pollution abatement plan shall specify and fully describe the BMPs and/or SCMs to be employed after development or redevelopment is complete to address the potential for highly contaminated runoff. BMP/SCM operational timeframes and frequencies shall be identified. The SCMs and BMPs submitted on the plan shall be subject to all other provisions of this chapter, including inspections and maintenance. Technical requirements for SCMs included in the plan shall be based on the provisions and guidelines set forth in the water quality SCM manual.

(c) BMPs and SCMs specified in the special pollution abatement plan must be appropriate for the pollutants targeted at the site and must be approved with the water quality management plan. (2000 Code, § 18-604, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-605. NPDES permits. Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation (TDEC) to the city manager no later than sixty (60) calendar days after issuance of the permit. (2000 Code, § 18-605, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-606. Record drawings/design certification. (1) A design professional competent in civil and site design and licensed to practice in the State of Tennessee shall verify in writing that each SCM is installed in keeping with the approved water quality management plan as set forth in the SCM manual. The written verification shall be provided to the city manager within ninety (90) days of SCM installation.

(2) Before a certificate of occupancy is granted, record drawings shall be provided to the city manager, certifying that all SCMs and BMPs comply with the design shown on the approved water quality management plan(s), and are undamaged, free of construction sediment, wastes, and other debris, and fully functional for use as a post-construction SCM. The record drawing shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size SCMs and BMPs. Additional features, such as the boundaries of vegetated buffers and water quality volume reduction areas shall be provided, as set forth in the water quality BMP manual to verify approved plans.

(3) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan, as stated in § 18-604(1) of this chapter, and/or a registered land surveyor licensed to practice in the State of Tennessee.

(4) The city manager shall rely on the verification letter, record drawings, and onsite inspections to determine construction conformance of SCMs, vegetated buffers, and water quality volume reduction areas with the approved water quality management plan. Where conformance is not achieved, corrective actions may be required. Corrective actions may include, but are not limited to:

(a) Resubmittal of water quality management plans or record drawings or record drawings or portions thereof that demonstrate the nonconforming SCMs, BMPs, vegetated buffers and water quality volume reduction areas as constructed meet the requirements of this chapter and the water quality SCM manual; and/or,

(b) Re-construction/modification of the nonconforming stormwater features on the property to meet the approved plan or requirements of this chapter and the manual.

(5) When required, corrective actions shall be performed at the sole cost and expense of the owner(s) of such facilities.

(6) Once record drawings are approved by the city manager, the owner document the location of the SCMs, BMPs, vegetated buffers, water quality volume reduction areas, and the water quality easements associated with these facilities/areas on a plat. The plat and the record drawings shall be recorded by the owner in the Office of the Register of Deeds for Carter County, Tennessee. (2000 Code, § 18-606, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-607. <u>Inspections and maintenance</u>. (1) <u>Applicability</u>. Section 18-607 is applicable to owners of developments or redevelopments that must submit a water quality management plan and owners of properties that include existing stormwater facilities, SCMs, BMPs, vegetated buffers, and water quality reduction areas.

(2) <u>Right of entry</u>. (a) During and after construction, the city manager may enter upon any property which has an existing stormwater facility, SCM, BMP, vegetated buffer, or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this chapter, or to request or perform corrective actions.

(b) Failure of a property owner to allow such entry onto a property for the purposes set forth in § 18-607(2)(a) above shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments in accordance with § 18-611 of this chapter.

(3) <u>Requirements</u>. (a) Owners shall at all times properly operate and maintain all stormwater facilities, SCMs, BMPs, vegetated buffers, and water quality volume reduction areas to maintain their full function as documented in record drawings or city approved design plans if record drawings are not available. SCM operation and maintenance shall be performed in accordance with the water quality SCM maintenance

manual. Additionally, owners shall ensure their SCMs are inspected at regular intervals as established in the water quality SCM maintenance manual. Documentation of inspections may be required.

(b) Inspection and maintenance of privately-owned facilities, including existing stormwater facilities, SCMs, BMPs, vegetated buffers, and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas.

(c) Inspection and maintenance documentation shall be maintained by the property owner for a minimum of five (5) years, and shall be submitted to, or otherwise made available for review by, the city manager upon request.

(d) The city manager has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(e) Restrictions for vegetated buffers. The following activities, substances, facilities, and land uses are prohibited in a vegetated buffer:

(i) The storage and use of pesticides, herbicides, and fertilizers, except as provided in this chapter;

(ii) The installation of impervious surfaces not already included in an approved water quality management plan, including but not limited to driveways, buildings, sheds, patios, storage facilities, pavement, decks, and pools;

(iii) Vehicle and equipment storage and maintenance;

(iv) Wastes of any type, including areas or receptacles for waste dumping, receiving, storage, and transfer;

(v) Septic tanks and drain fields;

(vi) Mining activities, borrow or fill pits, or similar areas or activities unless prior approval is granted by the city manager;

(vii) Animal concentration areas where animals gather in groups for migration, breeding, feeding, or sheltering, including but not limited to kennels, pens, sheds, barns, holding areas, exercise, loafing, or feeding lots;

(viii) SCMs, except as allowed by the SCM manual;

(ix) Other activities, substances, uses that are known or suspected to contribute pollutants to stormwater or waterways.

(f) The removal of sediment and/or other debris from existing stormwater facilities, SCMs, and BMPs shall be performed in accordance with all city, state, and federal laws. The city manager may stipulate additional requirements if deemed necessary for public safety.

(g) The city manager may order corrective actions to SCMs, BMPs, existing stormwater facilities, vegetated buffer areas, and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the city for the purposes of water quality treatment, channel erosion protection, adherence to local performance

standards, and/or public safety. If the property owner(s) fails to perform corrective action(s), the city manager shall have the authority to order the corrective action(s) to be performed by the city or others. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the property owner shall reimburse the city for double its direct and related expenses. If the property owner fails to reimburse the city, it is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.

(h) This chapter does not authorize access to adjoining private property by the property owner or site operator. Arrangements concerning the removal of sediment or pollutants on adjoining property must be settled by the owner or operator with the adjoining landowner. (2000 Code, § 18-607, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-608. Permit controls and stormwater system integrity. (1) Any alteration, improvement, or disturbance to SCMs, BMPs, vegetated buffers, or water quality volume reduction areas shown in certified record drawings shall be prohibited without authorization from the city manager. This does not include alterations that must be made in order to maintain the intended performance of the SCMs or BMPs.

(2) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a water quality management plan to the city. (2000 Code, § 18-608, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-609. Severability. (1) Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable.

(2) If any provisions of this chapter and any other provisions of law impose overlapping or contradictory regulations or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (2000 Code, § 18-609, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-610. Responsibility. This chapter does not imply a warranty or the assumption of responsibility on the part of the city for the suitability, fitness, or safety of any structure with respect to flooding, water quality, or structural integrity. This chapter is a regulatory instrument only and is not to be interpreted as an undertaking by the city to design any structure or facility. (2000 Code, § 18-610, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

18-611. Penalties. (1) Violations of this chapter shall be cause for the requirement for corrective action(s), the issuance of a stop work order, withholding of a permit, withholding of permit inspections, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments as set forth below.

(2) Any person who violates the provisions of this chapter shall be subject to a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000.00) per day for each day of each violation. Each day of violation may constitute a separate violation. The city shall give the alleged violator reasonable notice of the assessment of any civil penalty. The city may also recover all damages proximately caused to the city by such violations.

(3) In assessing a civil penalty, the following factors may be considered:

(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 enforcement costs incurred by the city;

(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) In addition to the civil penalty in subsection (2) above, the city may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incun-ed in investigating and enforcing violations of this part, or any other actual damages caused by the violation.

(5) Notice of damage assessment and civil penalty shall be served upon the alleged violator by personal delivery or certified mail, return receipt requested. Service by mail shall be deemed complete upon mailing. If the alleged violator is dissatisfied, the alleged violator may appeal said civil penalty or damage assessment.

Appeal from any assessment of civil penalty or damages or both, shall be to a five-member panel comprised of the public works director or designee, the director of planning and development or designee, the city attorney, the city manager or designee, and a city council member who represents the city on the Elizabethton Regional Planning Commission.

Said appeal must be received by the city manager's office within thirty (30) days after service of the notice of damage assessment and civil penalty. The appeal shall be heard by the panel within thirty (30) days of receipt of this appeal. The panel may continue the hearing and allow continuances to either the city or the alleged violator for good cause shown. If a timely appeal of the

damage assessment or civil penalty is not filed with the city manager's office, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. If the alleged violator files a timely appeal with the city manager's office and the violator is dissatisfied with the decision of the panel, the alleged violator may appeal the decision of the panel pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

(6) Whenever any damage assessment or civil penalty has become final because of a person's failure to appeal the damage assessment or civil penalty, the city may apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment. (2000 Code, § 18-611, as replaced by Ord. #60-14, Aug. 2024 ***Ch4_12-11-26***)

TITLE 19

ELECTRICITY AND GAS

CHAPTER
1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY[1]

SECTION
19-101. Elizabethton Electric System to be operated by the City Council of the City of Elizabethton.
19-102. Elizabethton Electric Department retail rate schedule.
19-103. Elizabethton Electric Department rate adjustments mandated by the Tennessee Valley Authority.

19-101. Elizabethton Electric System to be operated by the City Council of the City of Elizabethton. Electricity shall be supplied to the City of Elizabethton and its inhabitants by a municipal electric plant established pursuant to the Municipal Electric Plant Law of 1935. The supervision and control of the maintenance and operation of the electric plant shall be by the City Council of the City of Elizabethton as set forth pursuant to the provisions of Tennessee Code Annotated, title 7, chapter 52. (2000 Code, § 19-101)

19-102. Elizabethton Electric Department retail rate schedule.[2] The customer charge, energy, and demand rates for the Residential, GSA 1, GSA 2, GSA 3 and Outdoor Lighting customer classes are of record in the city clerk's office.

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[1]Municipal code reference
Electrical code: title 12, chapter 3.

[2]The Tennessee Valley Authority addendum to rates and charges is available for review in the office of the city clerk.

Classification	Effective Base Rate
GSB	
Customer charge per month	$1,500.00
Demand charge (per KW)	
All demand	$10.97
Energy charge (per KWH)	
1st 620 hours use demand	$0.02860
Additional KWH	$0.02334
MSB1	
Customer charge per month	$1,500.00
Demand charge (per KW)	
All KW	$9.49
Energy charge	
1st 620 hours use demand	$0.02436
Additional KWH	$0.01987
MSB2	
Customer charge per month	$1,500.00
Demand charge (per KW)	
All KW	$9.02
Energy charge	
1st 620 hours use demand	$0.02312
Additional KWH	$0.01888

(Ord. #46-16, Aug. 2010, modified, as amended by Ord. #47-21, Dec. 2011)

19-103. Elizabethton Electric Department rate adjustments mandated by the Tennessee Valley Authority. The electric department rates set forth in § 19-102, shall, further, be and are subject to charges required by the Tennessee Valley Authority (TVA) Charges and Adjustments, which most recent schedule of charges and adjustments is known as the Adjustment Addendum to the Schedule of Rates and Charges for the City of Elizabethton, Tennessee, which is effective October 1, 2009, and consists of environmental charge adjustments and fuel cost surcharge adjustments along with any other adjustments mandated by the Tennessee Valley Authority (TVA) to be passed on to the customers of the Elizabethton Electric Department as required by the contract with the Tennessee Valley Authority (TVA) dated June 19, 1985, as amended. The base rates set forth above in § 19-102 do not include any TVA charges for revenue adjustments, environmental adjustments or fuel cost

adjustments. These adjustments are added to the base electric rates to determine the actual customer effective electric rates. (Ord. #46-16, Aug. 2010)

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 municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.[2] (2000 Code, § 19-201)

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[1]Municipal code reference
Gas code: title 12, chapter 4.

[2]The agreements are of record in the office of the city clerk.

TITLE 20

MISCELLANEOUS

CHAPTER
1. AIRPORT AUTHORITY.
2. SMOKING REGULATIONS.
3. FAIR HOUSING REGULATIONS.
4. TELEPHONE AND TELEGRAPH SERVICE.

CHAPTER 1

AIRPORT AUTHORITY

SECTION
20-101. General law of state adopted by reference.
20-102. Provisions as to joint operation of airport.
20-103. Municipal airport authority created; membership; powers and duties.
20-104. Definitions.

20-101. General law of state adopted by reference. The terms and provisions of the general law regarding airport authorities as set forth in Tennessee Code Annotated §§ 42-3-101 through 42-3-103, and Tennessee Code Annotated §§ 42-5-101 through 42-5-205, and all amendments thereof, and all applicable municipal airport authority statutes, be and are hereby adopted and ratified, the same as if copied verbatim into this chapter, together with all future amendments of state law, and are made a part hereof fully by reference. (2000 Code, § 20-101)

20-102. Provisions as to joint operation of airport. The terms and provisions as to joint operation of airports, and all provisions thereof, as set out under Tennessee Code Annotated §§ 42-5-203, et seq., be and are hereby specifically adopted, ratified, and approved, and the city council may, by later resolution, authorize the joint operation thereof, a joint board, and other matters as contained in said statutory provisions by said resolution. (2000 Code, § 20-102)

20-103. Municipal airport authority created; membership; powers and duties. There is hereby created a municipal airport authority, which shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof after the issuance of a certificate of incorporation by the Secretary of State, all as provided by the Tennessee Code Annotated § 42-3-103, and the following sections, and all amendments thereof,

and all applicable code sections, the same as if copied herein verbatim, and which are adopted by reference.

The City Council of the City of Elizabethton, Tennessee, pursuant to this chapter, shall immediately appoint, by resolution, five (5) reputable citizens as contemplated by Tennessee Code Annotated § 42-3-103, as commissioners of the Elizabethton Municipal Airport Authority, by which name said airport authority is designated, for terms of one (1), two (2), three (3), four (4), and five (5) years respectively. Thereafter, each commissioner shall be appointed for a term of five (5) years, except that vacancies occurring otherwise than by the expirations of terms shall be filled for the unexpired terms by the City Council of the City of Elizabethton, Tennessee, as by law provided.

Upon appointment and qualification, the municipal airport commissioners shall have the powers and duties as prescribed by the statutes of the State of Tennessee as in matters of this kind. Nothing in this chapter shall be construed as creation of a regional airport authority as set forth in Tennessee Code Annotated §§ 42-3-104, et seq. (2000 Code, § 20-103)

20-104. Definitions. All definitions, including the establishment of airports, and air navigation facilities, land acquisition, limitation on design and operation of air navigation facilities, public purposes of airports, acquisition of existing airports, eminent domain, disposal of airport property, the operation and use and privileges, liens, regulations and jurisdiction, appropriations and taxation, and all other matters pertaining to airports shall be as defined by the statutes of the State of Tennessee together with all future amendments thereof, which are hereby expressly adopted and made a part of this chapter by reference for all purposes. (2000 Code, § 20-104)

CHAPTER 2

SMOKING REGULATIONS

SECTION

20-201. Purpose.
20-202. Definitions.
20-203. Restrictions.
20-204. Designation of smoking and non-smoking areas.
20-205. Posting of signs.
20-206. Governmental agency cooperation.
20-207. Enforcement and appeal.
20-208. Violations and penalty.

20-201. Purpose. The declared purpose of this chapter is to restrict the use of tobacco or any other smoking product in any city owned buildings, municipal facilities, and city owned vehicle. (2000 Code, § 20-201)

20-202. Definitions. As used in this chapter the following words and phrases shall have the meaning as stated:

(1) "Building superintendent" shall mean the senior city employee in such building, such as the city manager for city hall, the fire chief for the fire departments, the chief of police for the police department, and the public works director for the city garage.

(2) "Municipal facility" means any enclosed area or facility which is owned, operated, leased or under the control of the City of Elizabethton, Tennessee, to which the public is invited or in which the public is permitted; included, but not limited to waiting rooms, reception areas, meeting rooms, and areas which city employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, and conference rooms.

(3) "Smoke" or "smoking" means the carrying of a lighted pipe, or lighted cigar, or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind.

(4) "Tobacco product" means tobacco in any form, including, but not limited to snuff, chewing tobacco, cigars, and pipe tobacco. (2000 Code, § 20-202)

20-203. Restrictions. No person shall smoke or use tobacco products in any enclosed area in a municipal facility, in any city owned building, or any city owned vehicle. (2000 Code, § 20-203)

20-204. Designation of smoking and non-smoking areas. (1) All enclosed areas in municipal facilities are hereby designated as non-smoking areas.

(2) Smoking areas may be designated outside municipal facilities by the building superintendent and city manager.

(3) Smoking is not permitted in public school buildings, public conveyances, theaters, auditoriums, public assembly rooms, meeting rooms, rest rooms, elevators, libraries, museums or galleries, which are open to the public or in any place where smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(4) In open areas where smoking is permitted, existing physical barriers systems shall be used to minimize the effect of smoke in adjacent non-smoking areas. No smoking in an open doorway or passageway shall be permitted that would allow smoke to pass into any enclosed municipal facility, building, or any city owned vehicle. (2000 Code, § 20-204)

20-205. Posting of signs. No smoking signage shall be clearly, sufficiently, and conspicuously posted in every municipal facility or other place covered by this chapter. The manner of such posting including the wording, size, color, design, and place of posting whether on the walls, doors, tables, counters, stands or elsewhere shall be at the discretion of the building superintendent so long as clarity, sufficiency and conspicuousness are apparent in communicating the intent of this chapter. (2000 Code, § 20-205)

20-206. Governmental agency cooperation. The city manager shall annually request such governmental and educational agencies located within the City of Elizabethton, to establish local operating procedures to cooperate and comply with this chapter. In federal, state and county facilities within the City of Elizabethton, the city manager shall urge enforcement of no smoking prohibitions and request cooperation with this chapter. (2000 Code, § 20-206)

20-207. Enforcement and appeal. (1) The building superintendent shall post or cause to be posted all "No Smoking" signs required by this chapter. Employees shall be required to orally inform persons violating this chapter of the provisions thereof. The duty to inform shall arise when the employee becomes aware of such violation.

(2) It shall be the responsibility of the building superintendent to disseminate information concerning the provisions of this chapter to employees. (2000 Code, § 20-207)

20-208. Violations and penalty. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not more than fifty dollars ($50.00) for each offense. Each occurrence shall constitute a separate offense. (2000 Code, § 20-208)

CHAPTER 3

FAIR HOUSING REGULATIONS

SECTION

20-301. Definitions.
20-302. Unlawful acts.
20-303. Exemption for certain religious organizations.
20-304. Denial of access to multiple listing services, etc.
20-305. Conciliatory and educational activities.
20-306. Complaints.
20-307. Exhaustion of remedies.

20-301. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

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

(2) "Family" includes a single individual.

(3) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (2000 Code, § 20-301)

20-302. Unlawful acts. Subject to the exceptions hereinafter set out, it shall be unlawful for any person to do any of the following acts:

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

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

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

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

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, or sex. (2000 Code, § 20-302)

20-303. Exemption for certain religious organizations. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwelling which it owns or operates for other than commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, or sex. (2000 Code, § 20-303)

20-304. Denial of access to multiple listing services, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, or sex. (2000 Code, § 20-304)

20-305. Conciliatory and educational activities. The human relations sub-committee of the Citizens' Advisory Committee of Elizabethton is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call conference of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing them. The sub-committee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. The sub-committee may issue reports on such conferences and consultations as it deems appropriate. (2000 Code, § 20-305)

20-306. Complaints. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of said sub-committee. A complaint shall be filed within one hundred eighty (180) days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the human relations sub-committee. Upon receipt of a complaint the sub-committee shall promptly

investigate it and shall complete its investigation within fifteen (15) days. If a majority of the human relations sub-committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said sub-committee, the sub-committee may request the city attorney to prosecute an action in the city court against the person charged in the complaint. Such request shall be in writing.

Upon receiving such written request and with the assistance of the aggrieved person and said sub-committee, within fifteen (15) days after receiving such request the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (2000 Code, § 20-306)

20-307. Exhaustion of remedies. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the federal civil rights acts or other applicable legal provisions. (2000 Code, § 20-307)

CHAPTER 4

TELEPHONE AND TELEGRAPH SERVICE

SECTION

20-401. To be furnished under franchise.

20-401. To be furnished under franchise. Telephone and telegraph service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, 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.[1] (2000 Code, § 20-401)

[1]The agreements are of record in the office of the city clerk.

ORDINANCE NO. 52-4

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF ELIZABETHTON TENNESSEE.

WHEREAS some of the ordinances of the City of Elizabethton 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 Elizabethton, 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 "Elizabethton Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF ELIZABETHTON, AS FOLLOWS:[1]

Section 1. Ordinances codified. The ordinances of the Elizabethton 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 "Elizabethton Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or

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[1]Charter reference
Tennessee Code Annotated, § 6-20-214.

providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.[1]

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[1]State law reference

For authority to allow deferred payment of fines, or payment by

(continued...)

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of commissioners, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

(...continued)

installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 10. Date of effect. This ordinance shall take effect no sooner than fifteen (15) days after first passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one week elapses between first and second readings, the welfare of the town requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading January 14, 2016.

Passed 2nd reading February 11, 2016.

& Public Hearing Held February 11, 2016

Curt Alx

Mayor

Deborah B. Kesler

Recorder