THE

LEXINGTON

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

July 1998

CITY OF LEXINGTON, TENNESSEE

MAYOR

Jeffrey H. Griggs

VICE MAYOR

Sandra Wood

ALDERMEN

Emmitt Blankenship

Peggy Gilbert

Jack Johnson

Tim Rhodes

Gordon Wildridge

Gabe Williams

RECORDER

Sue Wood

PREFACE

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

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

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

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

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

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

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

(3) That the city agrees to 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 Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER[1]

[1]There are no ordinance adoption procedures in the City of Lexington charter. Ordinance adoption procedures appear in code § 1-104.

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION

1-101. Time and place of regular meetings.
1-102. Order of business.
1-103. General rules of order.
1-104. Ordinance adoption procedures.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular meetings at 6:00 P.M. on the first (1st) Tuesday following the first (1st) Monday of each month at the Lexington City Hall. If the regular meeting falls on a day observed as a holiday, the regular meeting shall be held at the same time and place on the third (3rd) Tuesday of the month. (as replaced by Ord. #200101, Feb. 2001, Ord. #200404, July 2004, Ord. #200601, Feb. 2006, and Ord. #200708, Oct. 2007)

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

(1) Call to order by the mayor.

(2) Roll call by the recorder.

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

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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, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

(4) Grievances from citizens.
(5) Communications from the mayor.
(6) Reports from committees, members of the board of mayor and aldermen, and other officers.
(7) Old business.
(8) New business.
(9) Adjournment.

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

1-104. Ordinance adoption procedures. All ordinances of the City of Lexington, Tennessee shall be adopted upon two (2) readings. Each reading shall be twenty-four (24) hours apart. (Ord. #____, April 1996)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Generally supervises city's affairs.
1-202. Executes city's contracts.
1-203. To be bonded.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all city affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities.

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen.

1-203. To be bonded. The mayor shall be bonded in the sum of one hundred fifty thousand dollars ($150,000) with such surety as may be acceptable to the mayor and aldermen, before assuming the duties of his office.

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[1]Charter references
Compensation: § 13.
Duties: § 13.
Election of mayor: § 5.

CHAPTER 3

RECORDER[1]

SECTION

1-301. To be bonded.
1-302. To keep minutes, etc.
1-303. To perform general administrative duties, etc.
1-304. To serve as the certified chief financial officer.

1-301. To be bonded. The recorder shall be bonded in the sum of one hundred fifty thousand dollars ($150,000) with such surety as may be acceptable to the mayor and aldermen, before assuming the duties of his office. The deputy recorder shall be bonded in the sum of twenty-five thousand dollars ($25,000).

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

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

1-304. To serve s the certified chief financial officer. As required by the Municipal Finance Officer Certification and Education Act of 2007, the city recorder, being financial agent of the city per section 13 of the Charter of the City of Lexington, shall become certified and compliant with requirements as set forth by and with this act. (as added by Ord. #200712, Oct. 2007)

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[1]Charter references
Duties: § 14.
Election of recorder: § 12.

CHAPTER 4

CODE OF ETHICS

SECTION

1-401. Applicability.
1-402. Definitions and prohibited conduct.
1-403. Gift ban.
1-404. Gift ban exceptions.
1-405. Disposition of gifts.
1-406. Disclosure of personal interests by official with a vote.
1-407. Disclosure of personal interests in nonvoting matters.
1-408. City recorder to maintain a disclosure file.
1-409. Ethics complaints.
1-410. Violations.
1-411. Repealer clause.
1-412. City recorder to file copy of ordinance with Tennessee Ethics Commission.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #200704, April 2007)

1-402. Definitions and prohibited conduct. For the purposes of interpreting this chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

(1) "City" means the municipality of Lexington, Tennessee.

(2) "Gift" means the transfer or conveyance of anything of economic value, regardless of form, without adequate and lawful consideration.

(3) "Immediate family" means parents, spouse and children.

(4) "Personal interest" means:

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

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

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

(d) The words "employment interest" includes 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.

(e) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

(5) Personal interest of officers prohibited. (a) It is unlawful for any officer, committee member, director, or employee whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which the City of Lexington shall or may be interested, to be directly interested in any such contract. "Directly interested" means any contract with the official personally or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(b) It is unlawful for any officer, committee member, director, or employee whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which the City of Lexington shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges such officer's interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.

(6) Interest of officer in municipal contracts prohibited. (a) No person holding office in the City of Lexington shall, during the time for which such person was elected or appointed, be capable of contracting with the City of Lexington for the performance of any work that is to be paid for out of the treasury. Nor shall such person be capable of holding or having any other direct interest in such a contract. "Direct interest" means any contract with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(b) No officer in the City of Lexington shall be indirectly interested in any contract to which the city is a party unless the officer publicly acknowledges such officer's interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality. (as added by Ord. #200704, April 2007, and replaced by Ord. #201102, March 2011)

1-403. <u>Gift ban</u>. Except as permitted in § 1-404 of this chapter, no covered official or employee, nor any immediate family member of a covered official or employee, shall intentionally or knowingly solicit or accept any gift as defined herein. (as added by Ord. #200704, April 2007)

1-404. <u>Gift ban exceptions</u>. Section 1-403 of this chapter is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the covered officer or employee, or a member of his or her immediate family, pays the fair market value.

(3) Any contribution that is lawfully made to the covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fund-raising event in support of a political organization or candidate.

(4) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.

(5) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great-uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancé.

(6) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

(a) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; and

(b) Whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(c) Whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(7) Food or refreshments not exceeding fifty dollars ($50.00) per person in value on a single calendar day; provided that the food or refreshments are:

(a) Consumed on the premises from which they were purchased or prepared; or

(b) Catered. For the purposes of this chapter, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(8) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(9) Intra-governmental and intergovernmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "intergovernmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(10) Bequests, inheritances, and other transfers at death.

(11) Ceremonial gifts or awards which have insignificant monetary value.

(12) Unsolicited gifts of nominal value or trivial items of informational value. (as added by Ord. #200704, April 2007)

1-405. <u>Disposition of gifts</u>. An officer or employee, his or her spouse or an immediate family member, does not violate this chapter if the recipient promptly takes reasonable action to return a prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under section 501(c) (3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded. (as added by Ord. #200704, April 2007)

1-406. <u>Disclosure of personal interests by official with a vote</u>. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects the official's vote on the measure. Additionally, the official may recuse himself or herself from voting on the measure. (as added by Ord. #200704, April 2007)

1-407. <u>Disclosure of personal interests in nonvoting matters</u>. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city recorder. In addition, the official or employee may, to the extent allowed by law,

charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. #200704, April 2007)

1-408. City recorder to maintain a disclosure file. The city recorder shall keep and maintain all financial disclosure statements required to be filed herein as public records and shall retain them for a period of five (5) years after which the statements shall be destroyed. (as added by Ord. #200704, April 2007)

1-409. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. 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 laws.

(2) Except as otherwise provided in this chapter, 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 to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this chapter. The city attorney may request that the city council retain another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(3) When a complaint of a violation of any provision of this chapter is lodged against the mayor or a member of the 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.

(4) When a violation of this chapter also constitutes a violation of the city's personnel policies, rules, or regulations, the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this chapter. (as added by Ord. #200704, April 2007)

1-410. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city charter or other applicable law and, in addition, is subject to censure by the city council. An appointed official or employee who violates any provision of this chapter is subject to disciplinary action up to, and including, termination of employment. (as added by Ord. #200704, April 2007)

1-411. <u>Repealer clause</u>. Any and all other ordinances and parts of ordinances which are inconsistent with the provisions of this chapter are hereby repealed to the extent of such in consistency. (as added by Ord. #200704, April 2007)

1-412. <u>City recorder to file copy of ordinance with Tennessee Ethics Commission</u>. Upon adoption by the board of mayor and aldermen, the city recorder is hereby directed to file a duly signed and attested copy of the ordinance comprising this chapter with the Tennessee Ethics Commission, in compliance with Section 49 of Public Chapter No. 1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly. (as added by Ord. #200704, April 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. ELECTRIC GOVERNING BOARD.
2. GAS GOVERNING BOARD.
3. WATER AND WASTEWATER GOVERNING BOARD.

CHAPTER 1

ELECTRIC GOVERNING BOARD

SECTION

2-101. Established.
2-102. Time and place of meetings.
2-103. Composition; appointment; terms.
2-104. Powers and duties.

2-101. Established. The Lexington Electric System Utility Board is hereby created and established. (as replaced by Ord. #200709, Oct. 2007, Ord. #201002, Sept. 2010, and Ord. #201209, June 2012)

2-102. Time and place of meetings. The Lexington Electric System Utility Board shall hold regular monthly meetings at 6:00 P.M. on the fourth (4th) Tuesday of each month at the Lexington City Hall. If the regular meeting falls on a day observed as a holiday, the regular meeting shall be held at the same time and place on the fourth (4th) Thursday of the month or may be cancelled and business shall be carried forward to the next regular monthly meeting.

Whenever, in the opinion of the chairman or three (3) aldermen, the welfare of the city requires it, the chairman or secretary shall call, and it shall be their respective duties to do so, special meetings of the Lexington Electric System Utility Board upon adequate written or other proper notice to each member served personally or left at their usual place of residence. (as added by Ord. #200709, Oct. 2007, and replaced by Ord. #201002, Sept. 2010 and Ord. #201209, June 2012)

2-103. Composition; appointment; terms. The governing body, which is comprised of the mayor and seven (7) aldermen, of the City of Lexington, shall have and perform all the powers, duties and responsibilities for the control and supervision of the Lexington Electric System.

The board members shall take office upon the adoption of this chapter, and said board shall meet and organize by electing a chairman and such other

officers as may be necessary. (as added by Ord. #200709, Oct. 2007, and replaced by Ord. #201002, Sept. 2010 and Ord. #201209, June 2012)

2-104. Powers and duties. (1) The governing board acting in said capacity has the power to take all steps and proceedings and to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers set forth herein.

(2) The governing board shall act in all matters pertaining to the financing of the enterprise and the acquisition of any or all parts of the proposed works or extensions thereto by purchase, condemnation or construction; shall have the power to take action with regard to all matters pertaining to construction, improvements and repairs necessary to proper completion of the works; shall have the power to proceed with all matters and perform everything necessary to the proper operation of the works and collection of charges for service rendered, subject only to the limitation of funds available for operation and maintenance.

(3) The governing board may appoint, promote, suspend, transfer and remove any officer or employee of Lexington Electric System; or the board may, in the board's discretion, authorize the chairman or head of a department or officer responsible to the board to take such actions regarding subordinates in such department or office. The board shall appoint such heads of administrative offices or organizational units, as the board deems necessary. The board may combine any such administrative offices herein or otherwise established. (as added by Ord. #201209, June 2012)

CHAPTER 2

GAS GOVERNING BOARD

SECTION

2-201. Established.
2-202. Time and place of meetings.
2-203. Composition; appointment; terms.
2-204. Powers and duties.

2-201. Established. The Lexington Gas System Utility Board is hereby created and established. (Ord. of __, 1987, as replaced by Ord. #200710, Oct. 2007)

2-202. Time and place of meetings. The Lexington Gas System Utility Board shall hold regular monthly meetings at 6:00 P.M. on the fourth (4th) Tuesday of each month at the Lexington City Hall. If the regular meeting falls on a day observed as a holiday, the regular meeting shall be held at the same time and place on the fourth (4th) Thursday of the month or may be cancelled and business shall be carried forward to the next regular monthly meeting.

Whenever, in the opinion of the chairman or three (3) aldermen, the welfare of the city requires it, the chairman or secretary shall call, and it shall be their respective duties to do so, special meetings of the Lexington Gas System Utility Board upon adequate written or other proper notice to each member served personally or left at their usual place of residence. (Ord. of __, 1987, as replaced by Ord. #200710, Oct. 2007)

2-203. Composition; appointment; terms. Pursuant to Tennessee Code Annotated, § 7-35-406, the governing body, which is comprised of the mayor and seven (7) aldermen, of the City of Lexington, shall have and perform all the powers, duties and responsibilities conferred upon a board of commissioners as provided in Tennessee Code Annotated, § 7-35-412, for the control and supervision of the water and sewer works.

The board members shall take office upon the adoption of this chapter, and said board shall meet and organize by electing a chairman and such other officers as may be necessary. (as added by Ord. #200710, Oct. 2007)

2-204. Powers and duties. (1) The governing board acting in said capacity has the power to take all steps and proceedings and to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers set forth herein.

(2) The governing board shall act in all matters pertaining to the financing of the enterprise and the acquisition of any or all parts of the proposed works or extensions thereto by purchase, condemnation or construction; shall

have the power to take action with regard to all matters pertaining to construction, extensions, improvements and repairs necessary to proper completion of the works; shall have the power to proceed with all matters and perform everything necessary to the proper operation of the works and collection of charges for service rendered, subject only to the limitation of funds available for operation and maintenance.

(3) The governing board may appoint, promote, suspend, transfer and remove any officer or employee of Lexington Water Systems; or the board may, in the board's discretion, authorize the chairman or head of a department or officer responsible to the board to take such actions regarding subordinates in such department or office. The board shall appoint such heads of administrative offices or organizational units, as the board deems necessary. The board may combine any such administrative offices herein or otherwise established. (as added by Ord. #200710, Oct. 2007)

CHAPTER 3

WATER AND WASTEWATER GOVERNING BOARD

SECTION

2-301. Established.
2-302. Time and place of meetings.
2-303. Composition; appointment; terms.
2-304. Powers and duties.

2-301. Established. The Lexington Water Systems Utility Board is hereby created and established. (as added by Ord. #200711, Oct. 2007)

2-302. Time and place of meetings. (1) The Lexington Water Systems Utility Board shall hold regular monthly meetings immediately following the Lexington Gas System Board meetings at 6:00 P.M. on the fourth (4th) Tuesday of each month at the Lexington City Hall. If the regular meeting falls on a day observed as a holiday, the regular meeting shall be held at the same time and place on the fourth (4th) Thursday of the month or may be cancelled and business shall be carried forward to the next regular monthly meeting.

(2) Whenever, in the opinion of the chairman or three (3) aldermen, the welfare of the city requires it, the chairman or secretary shall call, and it shall be their respective duties to do so, special meetings of the Lexington Water Systems Utility Board upon adequate written or other proper notice to each member served personally or left at their usual place of residence. (as added by Ord. #200711, Oct. 2007)

2-303. Composition; appointment; terms. (1) Pursuant to Tennessee Code Annotated, § 7-35-406, the governing body, which is comprised of the mayor and seven (7) aldermen, of the City of Lexington, shall have and perform all the powers, duties and responsibilities conferred upon a board of commissioners as provided in Tennessee Code Annotated, § 7-35-412, for the control and supervision of the water and sewer works.

(2) The board members shall take office upon the adoption of this chapter, and said board shall meet and organize by electing a chairman and such other officers as may be necessary. (as added by Ord. #200711, Oct. 2007)

2-304. Powers and duties. (1) The governing board acting in said capacity has the power to take all steps and proceedings and to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers set forth herein.

(2) The governing board shall act in all matters pertaining to the financing of the enterprise and the acquisition of any or all parts of the proposed works or extensions thereto by purchase, condemnation or construction; shall

have the power to take action with regard to all matters pertaining to construction, extensions, improvements and repairs necessary to proper completion of the works; shall have the power to proceed with all matters and perform everything necessary to the proper operation of the works and collection of charges for service rendered, subject only to the limitation of funds available for operation and maintenance.

(3) The governing board may appoint, promote, suspend, transfer and remove any officer or employee of Lexington Water Systems; or the board may, in the board's discretion, authorize the chairman or head of a department or officer responsible to the board to take such actions regarding subordinates in such department or office. The board shall appoint such heads of administrative offices or organizational units, as the board deems necessary. The board may combine any such administrative offices herein or otherwise established. (as added by Ord. #200711, Oct. 2007)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.
3-102. Jurisdiction.

3-101. City judge. (1) Appointment and term. The city judge shall be appointed by the board of mayor and aldermen and shall serve at the will and pleasure of the board of mayor and aldermen. Vacancies in the office of the city judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner and prescribed for the appointment of the city judge.

(2) Qualifications. The city judge shall be a minimum of thirty (30) years of age and be a resident of Henderson County. If the city judge for any reason removes his domicile from Henderson County after his appointment, the removal of his domicile shall automatically create a vacancy in the office of city judge.

(3) Judge pro tem. During the absence of the city judge from his duties for any reason or at any time the office of the city judge is vacant, the board of mayor and aldermen may appoint a city judge pro tem to serve until the city judge returns to his duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge.

(4) Salary. The sole compensation for serving as city judge shall be a salary fixed by the annual budget ordinance. (as replaced by Ord. #200510, Oct. 2005)

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[1]Charter reference
Mayor as judge: § 13.

3-102. <u>Jurisdiction</u>. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code. (as added by Ord. #200510, Oct. 2005)

CHAPTER 2

COURT ADMINISTRATION

SECTION

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

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

3-202. Imposition of fines, penalties, and costs. (1) All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

In all cases heard or determined by the city judge, the city judge shall tax in the bill of costs in accordance with the following schedule:

	Traffic Cases	Criminal Cases
State litigation tax	$ 13.75	$ 13.75
Clerk = cost and docketing	60.00	60.00
Officers fees	34.00	34.00
City litigation tax	13.75	13.75
Data processing fee	2.00	2.00
Fingerprint fee		5.00
Total costs	$123.50	$128.50

(2) (a) As used in this section, "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b) Pursuant to and in accordance with state statutory requirements found in Tennessee Code Annotated, § 55-10-207(e), each court clerk shall charge and collect an electronic citation fee of five dollars ($5.00) for each citation that results in a plea of guilty or nolo contendere, or a judgment of guilty. (as replaced by Ord. #200505, June 2005, Ord. #201004, Oct. 2010, and 201407, Aug, 2014, and amended by Ord. #201408, Aug. 2014)

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

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever.

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court.

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

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

3-301. Issuance of arrest warrants.[1] The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

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

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

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[1]State law reference
For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.
3-402. Appeals.
3-403. Bond amounts, conditions, and forms.
3-404. Driver's license held as security in minor traffic violations.

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody.

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.[1]

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

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

3-404. Driver's license held as security in minor traffic violations.
(1) Any person arrested by a police officer for violating a traffic law shall be taken before a judge of the city court or before a clerk of such court for the posting of an appearance bond guaranteeing the appearance of such person

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

before the city court to answer the charge for which arrested. In the alternative, whenever any person so arrested possesses a lawful chauffeur's or operator's license issued to such person by the department of safety of the State of Tennessee, except such persons as are charged with driving under the influence of intoxicant or narcotic drug or leaving the scene of an accident, may be given the option of depositing his chauffeur's or operator's license with the arresting officer or with the court in lieu of any other security or appearance bond.

Whenever any person deposits his chauffeur's or operator's license as provided, either the arresting officer or the court demanding bail shall issue such person a receipt for said license upon a form approved or provided by the department of safety, and thereafter said person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited.

The clerk or judge of the city court accepting such license shall forward said license to the department of safety in the event the arrested person fails to appear to answer the charge against him and such license shall not be released by the department of safety until the charge for which such license was deposited has been disposed of by the court in which pending.

(2) The arresting officer in all cases will deliver to the person arrested a citation on a form provided by the city recorder setting forth the violation for which the arrest was made and citing the arrested party to appear and answer the charge against him in the city court of the City of Lexington at a time at least forty-eight (48) hours after the alleged violation specified in said citation. (Ord. of May 2, 1972.)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL POLICY.
2. EMPLOYEES.
3. HIRING PROCEDURES.
4. BENEFITS.
5. ATTENDANCE REQUIREMENTS.
6. GRIEVANCE PROCEDURES.
7. STATE AND FEDERAL PERSONNEL MANDATES.
8. MISCELLANEOUS PERSONNEL POLICIES.
9. ETHICS POLICY.
10. DRUG POLICY.
11. COMMUNICATION SYSTEMS POLICY.
12. REPRIMANDS AND DISMISSALS.
13. DELETED.
14. PERSONNEL POLICY CHANGES.

CHAPTER 1

PERSONNEL POLICY

SECTION

4-101. General definitions.
4-102. Purpose.
4-103. At-will employer.
4-104. Coverage.

4-101. General definitions. The following are definitions as used in this chapter of the Lexington Municipal Code:

(1) "Board." The Board of Mayor and Aldermen for the City of Lexington, Lexington Gas System Board and/or Lexington Water Systems Board.

(2) "Department head." Lexington Utilities General Manager, City of Lexington Recorder, police chief, fire chief, and/or public works director.

(3) "Personnel department." Lexington Water Systems Administration Office, Lexington Gas System Administration Office, and/or the City of Lexington Recorder's Office.

(4) "Personnel director." City recorder or their designee. (as replaced by Ord. #200801, Jan. 2008)

4-102. <u>Purpose</u>. The purpose of this chapter is to establish a system of personnel administration for the employees of the City of Lexington, Tennessee. (as replaced by Ord. #200801, Jan. 2008)

4-103. <u>At-will employer</u>. The City of Lexington, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contract right to any job for any employee. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not tolerate federal and/or state law or the municipal charter. (as replaced by Ord. #200801, Jan. 2008)

4-104. <u>Coverage</u>. The following personnel are not covered by this policy, unless otherwise provided:

(1) All elected officials;

(2) Members of appointed boards and commissions;

(3) Consultants, advisers, and legal counsel rendering temporary professional service;

(4) The city attorney;

(5) Independent contractors and/or contract employees;

(6) Volunteer personnel;

(7) The city judge.

All other employees of the municipal government are covered by this personnel policy. (as added by Ord. #200801, Jan. 2008)

CHAPTER 2

EMPLOYEES

SECTION

4-201. Full-time.
4-202. Part-time.
4-203. Mandatory retirement age for police officers and firefighters.

4-201. Full-time. Full-time employees are individuals employed by the municipal government who are normally scheduled to work forty (40) hours per week. (as replaced by Ord. #200801, Jan. 2008)

4-202. Part-time. Part-time employees are individuals who may not work on a daily basis or who may work on a daily basis fewer than eight (8) hours a day or who are temporary and/ or seasonal employees and shall work less than an annual average of thirty (30) hours per week. (as replaced by Ord. #200801, Jan. 2008, and Ord. #201406, Aug. 2014)

4-203. Mandatory retirement age for police officers and firefighters. Any persons employed in the positions of police officer or firefighter shall retire upon attaining "full retirement age" as determined by the Social Security Administration. Said retirement shall become effective upon the first day of the month following their reaching said age. (as added by Ord. #980006, Dec. 1998, and replaced by Ord. #200801, Jan. 2008)

CHAPTER 3

HIRING PROCEDURES

SECTION

4-301. Policy statement.
4-302. Application.
4-303. Background checks.
4-304. Interviews.
4-305. Pre-appointment exams.
4-306. Appointments, hirings, etc.
4-307. Probation.

4-301. Policy statement. The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities. (as replaced by Ord. #200801, Jan. 2008)

4-302. Application. Persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government. Applications for the associated divisions shall be available at the main business offices of Lexington Gas System, Lexington Water Systems, Lexington Police Department and Lexington City Hall during regular office hours only. Applications may also be made available on the City of Lexington web site. Some positions may require resumes to be submitted. Applications will remain on active status for six (6) months after accepted or until the job for which the application was submitted is filled, whichever period of time is less. (as replaced by Ord. #200801, Jan. 2008, and Ord. #201306, Aug. 2013)

4-303. Background checks. The city shall conduct appropriate background checks on all final candidates receiving a conditional offer of employment. The scope and nature of this background check may vary based upon the type of position being filled. The type of information that will be collected includes, but is not limited to the following: reference checks, social security verification, education verification, criminal conviction record check, and, if applicable, a credit history check, sex offender registry and motor vehicle records checks. The results shall not be used as a basis for denying employment, unless the denial of employment is determined to be a job-related issue or business necessity. (as replaced by Ord. #200801, Jan. 2008, and Ord. #201606, Nov. 2016)

4-304. Interviews. All appointments will be preceded by an interview with one or more of the following:

(1) The department head;
(2) The department hiring committee;
(3) The board. (as replaced by Ord. #200801, Jan. 2008)

4-305. Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility/ability examination related to the essential functions of the job; written and/or oral tests related to the essential functions of the job. Upon a conditional offer of employment, all prospective employees must undergo a medical examination to determine the employee's ability to perform the essential functions on the job and also a drug screen. For some positions a psychological examination will be required. Reasonable accommodations shall be made in the physical agility/ability exam for applicants with disabilities upon making a request for accommodations. (as replaced by Ord. #200801, Jan. 2008)

4-306. Appointments, hirings, etc. All appointments/hirings shall be made or authorized by the board in accordance with lawful provisions of the municipal charter and code. Promotions and transfers shall be made by the department heads subject to approval by the CFO for budgetary purposes. (as amended by Ord. #200401, Jan. 2004, and replaced by Ord. #200801, Jan. 2008)

4-307. Probation. Only performance on the job is sure proof that an individual is capable of performing their duties; therefore, new employees are required to serve a probationary period of sixty (60) days. This time protects both the individual and the city from a prolonged association unprofitable to either. During this period, the employee's performance and work will be subject to review as to their competence to fill the position. Only after successful completion of this probationary period will the individual be recognized as a regular full time employee and due benefits as they become available. (as added by Ord. #200801, Jan. 2008, and replaced by Ord. #201406, Aug. 2014)

CHAPTER 4

BENEFITS

SECTION

4-401. Holidays.
4-402. Vacations.
4-403. Personal leave.

4-401. Holidays. (1) Generally, full-time employees are allowed a day (eight (8) hours) (ten (10) hours non salaried firemen) off with pay on the following holidays:

(a) New Years Day;
(b) Martin Luther King Day;
(c) Good Friday;
(d) Memorial Day;
(e) Fourth of July;
(f) Labor Day;
(g) Veteran's Day;
(h) Thanksgiving (2 days);
(i) Christmas (2 days);
(j) Bonus Day.

(2) Employees must be in a pay status on the workday before and on the workday after the holiday, unless otherwise excused by the department head, to receive compensation for the holiday.

(3) Bonus Day (j) shall be observed on a day designated by the mayor and used in combination with another holiday to allow for efficient, orderly work flow of city departments along with convenience of work scheduling to city employees.

(4) Employees with a floating holiday schedule shall apply for equal time off on an alternate day. Application must be made seventy-two (72) hours (minimum) prior to date requested and be approved by the department head or his designee. Holidays cannot be accumulated.

(5) Unless otherwise specified by the board of mayor and aldermen, holidays that fall on Sunday will be observed on the following Monday and those that fall on Saturday will be observed on the preceding Friday. (as replaced by Ord. #200801, Jan. 2008, and Ord. #201303, Feb. 2013)

4-402. Vacations. (1) Vacation days are given to employees by the City of Lexington in appreciation of service. It is a time provided for a respite from work responsibilities so that employees can return to work with renewed vigor and a new outlook.

Vacation days are given to eligible employees in amounts related to their length of continuous employment with the city as follows:

Employed 1 year =	40 hours or 48 hours/non salaried firemen
Employed 5 years =	Additional 40 hours or 48 hours/non salaried firemen
Employed 15 years =	Additional 40 hours or 48 hours/non salaried firemen

These days are initially given to an employee on the anniversary of their hire date, but thereafter the total of acquired vacation days are given to employees on the 1st day of January each year. Application must be made seventy-two (72) hours (minimum) prior to date requested for vacation and be approved by the department head or his designee.

(2) Vacation days cannot be accumulated. Each year's vacation must be used during that calendar year. The only exception to this shall be that employees hired in December will be allowed to take the week earned on the anniversary of their hire date in January of the following year.

If the days cannot be scheduled due to no fault of the employee then the employee will be paid for these days subject to approval by the board. At the first regular meeting of the board in January of each year the personnel director shall advise the board of any unused vacation days or holidays. The board shall appropriate funding to pay for these days with the department head to be held accountable for lack of scheduling. Salaried personnel will not be paid for any unused vacation days or holidays. Vacation days shall be taken at a time approved by the employee's department head.

(3) Upon separation, employees are entitled to be paid for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed. (as replaced by Ord. #200801, Jan. 2008)

4-403. <u>Personal leave</u>. (1) Eligible employees shall be entitled to accrue personal leave at a rate of one (1) day (eight (8) hours) (ten (10) hours/non salaried firemen) per month. These hours will be credited to the employee on the first day of the month, having been earned during the preceding month, and may not be borrowed or used prior to that day.

(2) Personal leave, so far as practical, will be granted by permission of the Department head at the time desired by the employee; but it must be scheduled in such a manner that orderly operation of the department involved will continue and adequate service to the public can be maintained. Any denial of leave may be appealed to the board.

(3) Employees on paid leave will continue to earn and accrue personal leave but no personal leave can be earned or accrued during a period of layoff or

any extended leave of absence without pay. There will be no limit on the amount of personal leave days an employee may accrue.

(4) Upon leaving employment with the City of Lexington, employees are entitled to be paid for all accumulated personal leave. The vacancy created will not be filled until the expenditure for the leave has been recovered through the budgeted salary for this position. If the position is deemed critical, the board may vote to amend the budget, if funds are available, to fill the position. (as replaced by Ord. #980005, Aug. 1998, and Ord. #200801, Jan. 2008)

CHAPTER 5

ATTENDANCE REQUIREMENTS

SECTION

4-501. Policy statement.
4-502. Attendance.
4-503. Time cards/sheets.

4-501. Policy statement. The city is committed to quality and responsible service to our residents and utility customers. Unplanned absenteeism prevents the city from meeting this standard of service. This policy recognizes the need for legitimate absences from work and establishes procedures for consistent treatment of excessive or unexcused absences. (as replaced by Ord. #200801, Jan. 2008)

4-502. Attendance. In order that the business of the city be conducted, it is important that all employees maintain regularity in attendance. It is recognized, however, that instances will occur when an employee must be absent due to bona fide sickness or emergency situations beyond the control of the employee. At the same time, we believe the city is entitled to expect employees to keep absences to a minimum. Excessive absenteeism and/or tardiness will not be tolerated and shall be dealt with through disciplinary action. The following procedures shall regulate employee attendance:

(1) If an employee is unable to come to work or knows that they are going to be late, they must notify their immediate supervisor prior to the start of their work schedule. If an employee is unable to reach their supervisor, they should contact their department office to leave word of their situation. It is the responsibility of the employee to obtain the name of the person to whom the absence or tardiness was reported.

(2) Each employee's attendance record shall be reviewed after their initial three (3) months of employment (or enactment of this chapter) and thereafter at the end of each month.

(3) Absenteeism in excess of five percent (5%) of scheduled work time during a running three (3) month consecutive period shall compel disciplinary action.

(4) An oral warning shall be issued for the first incident; a written warning for the second and third incidents; and, termination for the forth incident.

(5) Not counted in determining appropriated disciplinary action will include: death in family, jury duty, work injury, vacation, approved leave of absence, and on rare occasions absence due to extenuating circumstances.

(6) With acceptable attendance for twelve (12) consecutive months, disciplinary warnings shall be removed from the employee's record.

(7) Three (3) consecutive days of no call/no show shall be considered a voluntary resignation at the end of the shift on the third day. No warning or other type of disciplinary action will be given. (as added by Ord. #200801, Jan. 2008)

4-503. <u>Time cards/sheets</u>. Employees shall clock or sign in and out to record all time at work. Employee shall verify time card/sheet at end of work pay period and sign as to accuracy. Missed clock ins and/or outs will lead to disciplinary action. Falsifying time card/sheet shall result in immediate termination. (as added by Ord. #200801, Jan. 2008)

CHAPTER 6

GRIEVANCE PROCEDURES

SECTION

4-601. Grievance policy.
4-602--4-614. [Deleted.]

4-601. Grievance policy. The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administration orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

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

Step 1. Discuss the written grievance with the immediate supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.

Step 2. Discuss the grievance with the appropriate department head. If the grievance is not resolved, it is advanced to the third step along with all documentation.

Step 3. Discuss the grievance with the personnel director. If the grievance is not resolved, it is advanced to the forth step along with all documentation.

Step 4. Discuss the grievance with the mayor. If the mayor is unable to resolve the grievance, he will set up a meeting with the board.

Step 5. The board is the last and final step in the process. The decision of this board is final and binding to all parties involved. (as replaced by Ord. #200801, Jan. 2008)

4-602--4-614. [Deleted.] (as deleted by Ord. #200801, Jan. 2008)

CHAPTER 7

STATE AND FEDERAL PERSONNEL MANDATES

SECTION

4-701. Discrimination prohibited.
4-702. Sexual harassment prohibited.
4-703. Occupational safety and health.
4-704. Overtime/on call compensation.
4-705. Military leave/veterans' re-employment.
4-706. Family and medical leave.
4-707. Leave for adoption, pregnancy, childbirth and nursing an infant.
4-708. Commercial driver's license.
4-709. Residence requirements.
4-710. Employee right to contact elected officials.
4-711. Civil leave.
4-712. Voting.
4-713. Political activity.
4-714. Travel policy.

4-701. Discrimination prohibited. The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not fail to hire, refuse to hire, or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964 - 42 U.S.C. 2000e - 2000e-15; Equal Pay Act 1963 - 29 U.S.C. 206(d); Age Discrimination in Employment Act - 29 U.S.C. 621, et seq.; Americans With Disabilities Act - 42 U.S.C. 506, et seq.) (as replaced by Ord. #200801, Jan. 2008)

4-702. Sexual harassment prohibited. (1) Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's department head, supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching,

sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

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

(3) The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination. (as replaced by Ord. #200801, Jan. 2008)

4-703. Occupational safety and health. This section shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Lexington as follows:

(1) Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Lexington shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Lexington whether part-time or full-time, seasonal, temporary or permanent.

(2) Standards. The occupational safety and health standards adopted by the City of Lexington are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.

(3) Variances. The City of Lexington may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the city shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main departmental bulletin boards as designated by the City of Lexington shall be deemed sufficient notice to employees.

(4) Administration. For the purposes of this section, the City of Lexington Fire Chief is designated as the director of occupational safety and health (safety director) and shall perform the duties to plan, develop, and administer the City of Lexington Occupational Safety and Health Program when

it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan and is approved and adopted by the City of Lexington Board of Mayor and Aldermen.

(5) Accident reporting procedures. Employees shall report all injuries or accidents, no matter how minor, immediately to their supervisor who in turn shall notify the department head. An incident report and/or injury report must be completed with the department of human resources within twelve (12) hours of the occurrence.

(6) Funding. Funds for administering the program pursuant to this section will be made available as authorized by the City of Lexington.

(7) Program. The Occupational Safety and Health Program for the City of Lexington, including appendices, shall be adopted by resolution by the board of mayor and aldermen and shall be included in the Appendix.[1] (as replaced by Ord. #200801, Jan. 2008, and Ord. #201001, April 2010)

4-704. Overtime/on call compensation. (1) Overtime is defined as hours worked beyond two hundred twelve (212) worked hours in a twenty-eight (28) day work period for the fire department and forty (40) worked hours in a seven (7) day work period for all other departments. Overtime shall be paid at a rate of one and one half (1 1/2) times regular pay as per the Fair Labor Standards Act. All employees are required as a condition of employment with the city to work overtime as determined necessary by the department head.

(2) All employees of the city are "subject to call-in" for emergency purposes by the department head or his designee and, at such times, shall be reimbursed for the use of personal vehicles at a rate of ten dollars ($10.00) per call-in.

(3) Holiday hours shall count as hours worked for determining overtime. Other time such as vacation, personal leave, comp, etc. will not count as hours worked for determining overtime with the exception of emergency call-ins for employees "subject to call-in" for the police and fire departments.

(4) Department heads or their designees shall approve all overtime in advance except when emergencies arise that make advanced approval unfeasible (such as after hours call-ins). In situations as these, the department head shall ensure the accuracy of all overtime claimed.

(5) A minimum of one (1) hour will be given to any employee called out after hours. All time worked over this minimum shall be paid for actual time worked.

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[1]The Appendix (and any amendments) is available for inspection in the city recorder's office.

(6) Some employees shall be required to serve in "on call status" that will require being available and working after normal work hours. The following policies apply to this:

(a) Employees eligible for "on call status" in the police department shall live within a six (6) mile radius of the department's main office. Employees eligible for "on call status" in all other departments shall live within Henderson County. In the public works department, eligible employees shall be maintenance operators, and, in the police department, eligible employees shall be criminal investigators

(b) All eligible employees shall serve in the capacity of "on call status" on a rotating schedule as developed and maintained by the department head or their designee.

(c) The department shall provide "on call status" employee with a vehicle and a cell phone. Both are to be used only for "on call" service.

(d) On call employee shall be available for duty during all hours of his "on call status" schedule for shall remain within the six (6) mile radius or within Henderson County, as required by his department, at all times during his on call schedule.

(e) Any swap of "on call status" between employees shall have prior approval by the department head or his designee.

(f) Employees required to be in "on call status" shall be paid forty-five dollars ($45.00) per week in addition to any other hours/wages paid.

(g) Employees "subject to call-in" are not covered by this policy. (as replaced by Ord. #200801, Jan. 2008, and amended by Ord. #200802, March 2008, and Ord. #201205, April 2012)

4-705. <u>Military leave/veterans' re-employment</u>. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding twenty (20) working days in any one (1) calendar year.[1] Also, any employee of the municipality who leaves their job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA 38 U.S.C.A. 4301-4333) and the Tennessee Military Leave Act.[2] (as replaced by Ord. #200801, Jan. 2008)

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[1]State law reference
<u>Tennessee Code Annotated</u>, § 8-33-109.

[2]<u>Tennessee Code Annotated</u>, § 8-33-101, <u>et</u> <u>seq</u>.

4-706. <u>Family and medical leave</u>. (1) If the municipality has fifty (50) or more employees on the payroll an eligible employee (one who has been employed at least twelve (12) months and worked at least one thousand two hundred fifty (1,250) hours in the preceding twelve (12) months) will be provided twelve (12) calendar weeks of unpaid leave for medical conditions of the employee or their family members in accordance with the Family and Medical Leave Act (P.L. 103-3).

(2) Upon receipt from the employee of a written request for FML along with a doctor's statement of needed leave, a written determination from the department head and personnel department shall be issued to the employee. (as replaced by Ord. #200801, Jan. 2008)

4-707. <u>Leave for adoption, pregnancy, childbirth and nursing an infant</u>. (1) Employees who have been employed for at least twelve (12) consecutive months as full-time employees, as determined by the city , may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable, referred to as "leave" in this section. With regard to adoption, the four-month period shall begin at the time an employee receives custody of the child.

(2) Employees who give at least three (3) months' advance notice to their department head of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(3) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice. Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(4) Such leave shall not affect the employees' right to receive vacation time, personal leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees' employment position; provided, that the city need not provide for the cost of any benefits, plans or programs during the period of such leave, unless the city so provides for all employees on leaves of absence.

(5) If an employee's job position is so unique that the city cannot, after reasonable efforts, fill that position temporarily, then the city shall not be liable under this section for failure to reinstate the employee at the end of the leave period.

(6) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if the city finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the city finds that the employee has worked part time or full time for another employer during the period of leave, then the city shall not be liable under this section for failure to reinstate the employee at the end of the leave.

(7) Whenever the city shall determine that the employee will not be reinstated at the end of the leave because the employee's position cannot be filled temporarily or because the employee has used the leave to pursue employment opportunities or to work for another employer the city shall so notify the employee. (as added by Ord. #200801, Jan. 2008)

4-708. Commercial driver's license. All employees that drive:

(1) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;

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

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

(4) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-101, et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements. (as added by Ord. #200801, Jan. 2008)

4-709. Residence requirements. No person "currently employed" by the municipality can be dismissed or penalized "solely on the basis of non-residence".[1] However, all future employees shall be required to live within Henderson County. (as added by Ord. #200801, Jan. 2008)

4-710. Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter.[2] (as added by Ord. #200801, Jan. 2008)

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[1]State law reference
Tennessee Code Annotated, § 8-50-107.

[2]State law reference
Tennessee Code Annotated, § 8-50-601-604.

4-711. Civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(1) Jury duty[1];

(2) To answer a subpoena to testify for the municipality. (as added by Ord. #200801, Jan. 2008)

4-712. Voting. When elections are held in the state, leave for the purpose of voting, if requested and needed, shall be in accordance with Tennessee Code Annotated, § 2-1-106. (as added by Ord. #200801, Jan. 2008)

4-713. Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election.[2] (as added by Ord. #200801, Jan. 2008)

4-714. Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy as required by Tennessee Code Annotated, § 6-54-901. (as added by Ord. #200801, Jan. 2008)

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[1]State law reference
Tennessee Code Annotated, § 22-4-108.

[2]State law reference
Tennessee Code Annotated, § 7-51-1501.

CHAPTER 8

MISCELLANEOUS PERSONNEL POLICIES

SECTION

4-801. Outside employment.
4-802. Use of municipal time, vehicles, facilities, etc.
4-803. [Deleted.]
4-804. [Deleted.]
4-805. Use of position.
4-806. Strikes and unions.

4-801. Outside employment. No full-time employee of the municipality may accept any outside employment, including self employment, without written authorization from their department head. The department head shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. Any determination made by the department head under this section, may be appealed to the mayor. If agreement on determination cannot be reached, appeal may be taken to the board. (as replaced by Ord. #200801, Jan. 2008)

4-802. Use of municipal time, vehicles, facilities, etc. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other persons, group, or organization other than the municipality. Provided, however, that this prohibition shall not apply where the governing body has authorized the use of such time, facilities, equipment, or supplies, and the municipality is paid at such rates as are normally charged by private sources for comparable services. Decisions about aid to charitable, civic or other organizations will be made exclusively by the board. (as replaced by Ord. #200801, Jan. 2008)

4-803. [Deleted.] (as replaced by Ord. #200801, Jan. 2008, and deleted by Ord. #201102, March 2011)

4-804. [Deleted.] (as added by Ord. #200801, Jan. 2008, and deleted by Ord. #201102, March 2011)

4-805. Use of position. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall otherwise use or attempt to use their position to secure unwarranted privileges or exemptions for himself or others. (as added by Ord. #200801, Jan. 2008)

4-806. <u>Strikes and unions</u>. No city officer or employee shall participate in any strike against the city, nor shall they join, be a member of, or solicit any other municipal officer or employee to join any labor union that authorizes the use of strikes by government employees. (as added by Ord. #200801, Jan. 2008)

CHAPTER 9

ETHICS POLICY

SECTION

4-901. Ethics policy.

4-901. Ethics policy. (1) All employees of the city shall comply with the City of Lexington Ethics Policy. The "Ethics Policy"[1] shall be and is hereby adopted by reference as part of this title and shall become a part of the municipal code of the City of Lexington, Tennessee.

(2) Should any section, paragraph, sentence, clause or phrase of this policy, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of the policy be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this policy or its application to other persons or circumstances. (as replaced by Ord. #200801, Jan. 2008)

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[1]Ord. #200704 is available in the office of the city recorder.

CHAPTER 10

DRUG POLICY

SECTION

4-1001. Drug policy.
4-1002--4-1003. [Deleted.]

4-1001. Drug policy. (1) All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199).

(2) All employees of the City shall comply with the City of Lexington Drug Policy. The "Drug Policy for Employees of the City of Lexington, Tennessee"[1] shall be and is hereby adopted by reference as part of this title and shall become a part of the municipal code of the City of Lexington, Tennessee.

(3) Should any section, paragraph, sentence, clause or phrase of this policy, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of the policy be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this policy or its application to other persons or circumstances. (as replaced by Ord. #200801, Jan. 2008)

4-1002--4-1003. [Deleted.] (as deleted by Ord. #200801, Jan. 2008)

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[1]State law reference
Ordinance Number 200001 is on file in the office of the city recorder.

CHAPTER 11

COMMUNICATION SYSTEMS POLICY

SECTION

4-1101. Purpose and definitions.
4-1102. Uses.

4-1101. Purpose and definitions. All computer electronic mail (e-mail), and telephone communication systems, including voice mail, and all communications and information transmitted by, received from, or stored in these systems are the property of the City of Lexington. Communication by email is encouraged when it results in the most efficient and/or effective means of communication. All employees are to use email and internet as they would any other type of official city communication tool. The city has the right to access all communications and information sent over its communications systems and monitors the use of such systems at any time. (as replaced by Ord. #200801, Jan. 2008)

4-1102. Uses. (1) While the city provides these communication sources and encourages their use, certain restrictions are necessary to avoid improprieties and to avoid possible adverse public perceptions. City information network resources are not to be used to solicit others for commercial ventures religious or political causes. Nor shall these resources be used for illegal, harassing, libelous or obscene purposes during or outside city business hours. These resources shall not be used in any manner that would violate the property rights of others, including unauthorized copyrighted text, images or programs, trade secrets or other confidential proprietary information or trademarks or service marks used in any infringing fashion. There is to be no transmission or use of email or other communications that contain inflammatory messages, ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, national origin, sex, age, disability or religious beliefs or practices. Violation of this policy may result in disciplinary action.

(2) Personal use of communication equipment is only permitted with the following conditions:

(a) Employee should be aware that any use is subject to all provisions of this policy.

(b) There must be no cost to the City of Lexington.

(c) It does not interfere with the employee's ability to carry out the city's business in an efficient manner.

(d) Use must not interfere with the ability of other employees to do their jobs.

(e) Use of the city's communication devices is prohibited for the purpose of conducting outside business.

(f) Individuals who are not employees, volunteers or contractors of the city are not permitted to use the city's communication devices unless it is for the benefit of the City of Lexington or an emergency.

(g) Personal use should be of minimum nature and shall not be conducted when customers are waiting for service.

(h) Use of the phones for simply chatting and/or gossiping during work schedule is strictly forbidden.

(i) Use of the internet for simply chatting and/or personal entertainment during work schedule is strictly forbidden.

(j) None of the above is intended to prevent the use of the city's communications systems for an emergency either personal or otherwise. (as added by Ord. #200801, Jan. 2008)

CHAPTER 12

REPRIMANDS AND DISMISSALS

SECTION

4-1201. Reprimands.
4-1202. Disciplinary action.
4-1203. Oral reprimand.
4-1204. Written reprimand.
4-1205. Suspension.
4-1206. Dismissal.
4-1207. Appeals process.

4-1201. Reprimands. The mayor, having general supervision of all employees of the City of Lexington, may suspend any employee for misconduct or dereliction of duty as a means of reprimand. (as replaced by Ord. #200801, Jan. 2008)

4-1202. Disciplinary action. Employees are expected to maintain high standards of conduct, cooperation and efficiency in their work. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and patterns of past performance and conduct. The types of disciplinary action are: oral reprimand, written reprimand, suspension, and dismissal. All disciplinary action taken will be scheduled through and witnessed by the personnel director with records of all disciplinary action taken being maintained in the personnel files in the personnel department. (as replaced by Ord. #200801, Jan. 2008)

4-1203. Oral reprimand. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the department head or his/her designee shall inform the employee promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating further disciplinary actions. The department head, with the personnel director as witness, will place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response. (as replaced by Ord. #200801, Jan. 2008)

4-1204. <u>Written reprimand</u>. (1) In situations where an oral warning has not resulted in the expected improvement or when more severe initial action is warranted, a written reprimand may be sent to the employee, and a copy shall be placed in the employee's personnel folder. The department head or his/her designee administering the reprimand shall advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions shall be taken.

(2) At the conclusion of a conference with the employee, a copy of the written reprimand shall be placed in the employee's personnel folder. It is recommended that the affected employee sign the written reprimand to indicate that they have seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the department head and personnel director, as witness, will sign and date the form and so indicate the employee's refusal to sign. (as replaced by Ord. #200801, Jan. 2008)

4-1205. <u>Suspension</u>. An employee may be suspended by their department head. All suspensions shall be without pay. The suspension will not exceed a total of fourteen (14) days in any twelve (12) month period. Pursuant to the appeals procedures, a written statement of the reason for suspension shall be submitted to the affected employee within twenty-four (24) hours of the effective date and time of suspension. The employee can be granted a hearing before the board upon request, pursuant to the appeals process. An employee determined to be innocent of the charges shall be returned to duty with full pay for the suspension period. All records associated with a suspension shall become a permanent part of the employee's personnel file. (as replaced by Ord. #200801, Jan. 2008)

4-1206. <u>Dismissal</u>. (1) The department head, with witness and direction of personnel director, may dismiss or demote an employee for just cause that is for the good of the city service, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal code. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsifying records, or violating any of the charter provisions, ordinances, or these rules. Examples include:

(a) Incompetence or inefficiency in performing duties.

(b) Conviction of a criminal offense or of a malfeasance involving moral turpitude.

(c) Violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline.

(d) Being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty.

(e) Theft, destruction, carelessness, or negligence of city property.

(f) Disgraceful personal conduct or language toward the public, fellow officers, or employees.

(g) Unauthorized absences or abuse of leave privileges.

(h) Incapacity to perform the essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated.

(i) Accepting any valuable consideration that was given with the expectation of influencing the employee in performing their duties.

(j) Falsifying records or using official position for personal advantage.

(k) Loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle necessary in performing their duties.

(l) Violating any of the provisions of the city charter, personnel ordinance, or these rules.

(2) The above is to be considered as examples of inappropriate employee behavior and not all-inclusive. Other situations not listed above may subject employees to corrective action, up to and including discharge. (as replaced by Ord. #200801, Jan. 2008)

4-1207. <u>Appeals process</u>. Any city employee reprimanded, suspended, or dismissed may submit a request in writing to the mayor, asking for a review by the board on the action. An employee must submit the request for an appeal within five (5) calendar days of receiving notification of the disciplinary action and must also state their intent to have representation and to name the representatives. The mayor shall schedule a hearing within ten (10) days of receiving the employee's request for appeal. The action of the board shall be final and binding on all parties involved. (as replaced by Ord. #200801, Jan. 2008)

CHAPTER 13

DELETED

(this chapter was deleted by Ord. #201406, Aug. 2014)

CHAPTER 14

PERSONNEL POLICY CHANGES

SECTION

4-1401. Policy changes.

4-1401. Policy changes. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as the need arises. (as added by Ord. #200801, Jan. 2008)

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. HOTEL/MOTEL TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for city funds.
5-102. Creation of special revenue fund.

5-101. Official depository for city funds. Union Planters, First Bank, Bank of Lexington, Local Government Investment Pool, Community National Bank of Tennessee, and First Tennessee are hereby designated as the official depositories for all city funds.

5-102. Creation of special revenue fund. (1) A special revenue fund known as the "special projects fund" shall be created to account for and report the proceeds and expenditures associated with the revenue received for the inspection fee adopted by the City of Lexington Ordinance 201106 and contained in § 8-114 of the City of Lexington Municipal Code.

(2) An account to be known as "Lexington Special Projects" shall be established with a local bank and/ or the Local Government Investment Pool. All revenue derived from these inspection fees shall be deposited in this account.

(3) Expenditures shall be made from this fund only by authorization through an ordinance adopted by the board.

(4) The city recorder/ CFO shall be responsible for implementing the provisions and parameters of this special fund for the City of Lexington as set out in this section.

(5) Any amendments and/or adjustments of these provisions and parameters shall only be made through an ordinance adopted the board. (as added by Ord. #201212, Oct. 2012)

CHAPTER 2

REAL PROPERTY TAXES

SECTION

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

5-201. When due and payable.[1] Taxes levied by the city against real property shall become due and payable annually on the first day of October of the year for which levied.

5-202. When delinquent--penalty and interest.[2] All real property taxes becoming delinquent shall be subject to such penalty and interest as is authorized and prescribed by the charter.[3]

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[1]State law references

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

[2]Charter and state law reference

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

[3]Charter and state law references

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

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

CHAPTER 3

PRIVILEGE TAXES

SECTION

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

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

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

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. There is hereby levied against the wholesaler and/or distributor a tax in the sum of seventeen (17%) per cent of the wholesale cost to be collected by the wholesaler and/or distributor and paid to the municipality of the City of Lexington, Tennessee, and certified copies of this section shall be his authority to collect and remit said tax. Said wholesaler and/or distributor shall furnish the board or commission with the wholesale price lists of beverages distributed in this area and pay said tax each and every month.[1] (Ord. of Feb. 6, 1979)

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[1]State law reference

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

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

CHAPTER 5

HOTEL/MOTEL TAX

SECTION

5-501. Definitions.
5-502. Levy of occupancy tax.
5-503. Collection by operator; inclusion in rate.
5-504. Remittance of tax by operator.
5-505. Collection of tax by city.
5-506. Disclosure of tax.
5-507. Failure of operator to collect tax.
5-508. Rules and regulations; reports; records.
5-509. Allocation of funds.

5-501. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Consideration" means the consideration charged, whether or not received, for 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.

"City Recorder" means the city recorder of Lexington.

"Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

"Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

"Operator" means the person operating the hotel whether as owner, lessee or otherwise.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodation in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #201201, Feb. 2012)

5-502. <u>Levy of occupancy tax</u>. The city hereby levies a privilege tax upon the privilege of occupancy in a hotel of each transient in an amount of five percent (5%) of the rate charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter. (as added by Ord. #201201, Feb. 2012)

5-503. <u>Collection by operator; inclusion in rate</u>. (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy of the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected 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. #201201, Feb. 2012)

5-504. <u>Remittance of tax by operator</u>. (1) The tax levied shall be remitted to the city recorder or their designee by all operators who lease, rent or charge for rooms or spaces in hotels within the city, and the city recorder is charged with the duty of collection thereof. Such tax shall be remitted to such officer not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy 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.

(2) For the purpose of compensating the operator in accounting for and remitting the tax authorized and levied pursuant hereto and the related ordinances of the city, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city in the form of a deduction in submitting his report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (as added by Ord. #201201, Feb. 2012)

5-505. <u>Collection of tax by city</u>. (1) The city recorder shall be responsible for the collection of such tax and shall place the proceeds of such tax in the general funds account of the city. A monthly tax return shall be filed under oath with the city recorder by the operator, with such number of copies thereof as the city recorder 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 city recorder and approved by the board of mayor and aldermen prior to use. The city recorder shall cause an audit of each operator

in the city at least once per year and shall report on the audits made to the board of mayor and aldermen.

(2) The board of mayor and aldermen is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #201201, Feb. 2012)

5-506. Disclosure of tax. 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. #201201, Feb. 2012)

5-507. Failure of operator to collect tax. Taxes collected by an operator which are not remitted to the city recorder on or before the due dates shall be 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 herein required to be remitted. Each occurrence of willful failure or refusal of an operator to collect or remit the tax or the willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars ($50.00). In addition, it is unlawful for any operator to knowingly file a false tax return, and a violation shall be punishable by a civil penalty of not more than fifty dollars ($50.00). (as added by Ord. #201201, Feb. 2012)

5-508. Rules and regulations; reports; records. (1) It is the duty of every operator liable for the collection and payment to the city of any tax imposed under the authority of this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax for which he may have been liable for the collection of and payment to the city, which records the city recorder, his designee or any accounting firm or accountant employed by the city, shall have the right to inspect at all reasonable times.

(2) The city recorder, 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 Tennessee Code Annotated, § 67-1-101 et seq. or otherwise provided by law for county clerks and/or municipal officers.

(3) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, § 67-1-1801 et seq., it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected also apply to taxes illegally assessed and collected under the authority of this chapter. The city recorder shall also possess those powers and duties as provided in Tennessee

Code Annotated, § 67-1-707 for county clerks with respect to the adjustments and refunds of such tax.

(4) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city recorder under the authority of this chapter shall be refunded by the city.

(5) Notice of any tax paid under protest shall be given to the city recorder, and suit may be brought for recovery of such tax against the mayor of the city in his official capacity. (as added by Ord. #201201, Feb. 2012)

5-509. Allocation of funds. The proceeds of the tax authorized by this chapter shall be allocated to such funds dedicated solely for tourism development. (as added by Ord. #201201, Feb. 2012)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST[1]

SECTION

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

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trail of cases. Policemen shall also promptly serve any legal process issued by the city court.

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

6-104. When policemen to make arrests[1]. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(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.

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest.

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

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

1. FIRE DISTRICT.
2. GASOLINE TRUCKS.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIREWORKS.
5. FIRE CODE.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be that area covered by Court Square and extending outwardly one block completely around such square.

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

CHAPTER 2

GASOLINE TRUCKS

SECTION

7-201. Gasoline trucks.
7-202. Violations and penalties.

7-201. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

7-202. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT[1]

SECTION

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

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the chief shall appoint.

7-302. Objectives. The fire department shall have as its objectives:

(1) To prevent uncontrolled fires from starting.
(2) To prevent the loss of life and property because of fires.
(3) To confine fires to their places of origin.
(4) To extinguish uncontrolled fires.
(5) To prevent loss of life from asphyxiation or drowning.
(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department.

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters

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[1]Municipal code reference
Special privileges with respect to traffic: title 15, chapter 2.

to the mayor once each month, and at the end of the year a detailed annual report shall be made.

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. The chief may be suspended by the mayor but may be dismissed only by the board of mayor and aldermen.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe.

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

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

CHAPTER 4

FIREWORKS

SECTION

7-401. Regulations.
7-402. Permits.
7-403. When allowed.
7-404. Disturbing the peace.
7-406. Minors.

7-401. Regulations. All firework sales in the City of Lexington are to be in agreement with state regulations concerning dates and times set by the state fire marshall's office. (Ord. of Oct. 6, 1992)

7-402. Permits. All persons selling fireworks must have the following:
(1) State fireworks permit.
(2) State sales tax number.
(3) City business license.
(4) County business license. (Ord. of Oct. 6, 1992)

7-403. When allowed. The shooting of fireworks inside the corporate limits of the City of Lexington shall be allowed three (3) days prior, the day of, and three (3) days following the holidays designated below until 9:00 P.M.:
(1) July 4th (Independence Day);
(2) Halloween;
(3) Christmas Day;
(4) New Year's Day.

Sponsored professional fireworks displays by the City of Lexington shall be allowed until 10:00 P.M. on the above designated days and at other such dates of special events as determined by the mayor and board of aldermen. (Ord. of Oct. 6, 1992, as replaced by Ord. #200804, July 2008)

7-404. Disturbing the peace. The discharging of fireworks on the above dates and times shall not constitute disturbing the peace subject to the following conditions.

In the event that the police department of the City of Lexington becomes aware of any discharging of fireworks which is excessive or which in the opinion of the officer constitutes a danger or other safety problem or which constitutes in the opinion of the officer a disturbance of the peace due to the excessive discharging of fireworks or due to the location of the discharging of fireworks and such person or persons are warned by said officer or officers and fail to obey the warning, then the officer may in his discretion issue a warrant for disturbing the peace (Ord. of Oct. 6, 1992)

7-405. <u>Minors</u>. All minors will be required to be under the direct supervision of responsible adults at these specific periods of time. (Ord. of Oct. 6, 1992)

CHAPTER 5

FIRE CODE[1]

SECTION

7-501. Fire code adopted.
7-502. Enforcement.
7-503. Definition of "municipality."
7-504. Storage of explosives, flammable liquids, etc.
7-505. Gasoline trucks.
7-506. Variances.
7-507. Open burning regulated.
7-508. Violations and penalties.

7-501. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,[2] 2015 edition is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city recorder and is available for public use and inspection. Said International Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #980001, Feb. 1998, modified, as replaced by Ord. #201803, May 2018)

7-502. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

7-503. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Lexington, Tennessee. (as amended by Ord. #200702, Feb. 2007)

7-504. Storage of explosives, flammable liquids, etc. (1) The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosive

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

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

materials is prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

(2) The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

(3) The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

(4) The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire district as set out in § 7-101 of this code.

7-505. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

7-506. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

7-507. Open burning regulated. The open burning of any garbage, trash, rubbish, leaves, grass, construction debris, waste materials or any other type of combustible material by any person, firm or corporation, without first having obtained written permission from the chief of the fire department, is hereby prohibited.

(1) Exceptions. Fire used for cooking food, ceremonial or recreational purposes, including barbecues and outdoor fireplaces, shall be excepted form the requirements contained herein. This exception does not include bonfires or commercial food preparation facilities and their operation.

(2) Permits. The fire chief, in granting or denying such permission, shall take into consideration the following:

(a) All burning shall be between the hours of 9:00 A.M. until sundown, or as authorized by the chief.

(b) No burning shall be kindled or maintained on any private land unless the location is not less than fifty feet (50') from any structure and adequate provision is made to prevent fire from spreading within fifty feet (50') of any structure, or the fire is contained in an approved

waste burner located safely, not less than fifteen feet (15') from any structure.

(c) Open burning shall be constantly attended by a competent person, over eighteen (18) years of age, until such fire is extinguished. Such person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.

(d) No gasoline, kerosene, diesel, or flammable liquids or solids are to be used as an accelerator.

(e) The fire chief may prohibit any open burn when atmospheric conditions or local circumstances make such fires hazardous.

Permits will be valid for the period stated by the fire chief, or his designated representative. Prior to burning, the permittee will call the fire department to inform them that a permit has been obtained and the permittee is going to be burning.

The granting of an open burning permit shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning, or of the responsibility of obtaining any other permit from any other agency.

(3) Prohibitions. It shall be unlawful to burn any of the following:

(a) Tires and rubber products;

(b) Vinyl siding and shingles;

(c) Asphalt shingles and other asphalt roofing materials and demolition debris;

(d) Building material, construction debris and mobile homes;

(e) Plywood, oriented strand board and treated wood, including railroad ties;

(f) Asbestos - containing materials;

(g) Aerosol cans and food cans;

(h) Copper wire and electrical wires;

(i) Plastics and other synthetic materials;

(j) Paper products, cardboard and newspaper;

(k) Household trash;

(l) Leaves, branches and trees not grown on site. (as added by Ord. #200702, Feb. 2007)

7-508. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard Fire Prevention Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal

code shall not be held to prevent the enforced removal of prohibited conditions. (as renumbered by Ord. #200702, Feb. 2007)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Alcoholic beverages subject to regulation.
8-102. Application for certificate of compliance.
8-103. Applicant to agree to comply with laws.
8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
8-105. Action on application.
8-106. Residency requirement.
8-107. Applicants for certificate who have criminal record.
8-108. Only one establishment to be operated by retailer.
8-109. Where establishments may be located.
8-110. Retail stores to be on ground floor; entrances.
8-111. Limitation on number of retailers.
8-112. Sales for consumption on premises.
8-113. Amusement devices and seating facilities prohibited in retail establishments.
8-114. Inspection fee.
8-115. Violations.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57. (as added by Ord. #201106, Dec. 2011)

8-102. Application for certificate of compliance. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal

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

as required by § 57-3-213 shall be signed by the mayor, or by any aldermen,[1] an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

(1) Name, age and address of the applicant.

(2) Evidence of being a bona fide resident of Henderson County for not less than one (1) year or evidence of being continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years.

(3) Occupation or business and length of time engaged in such occupation or business.

(4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.

(5) If employed, the name and address of employer.

(6) If in business, the kind of business and location thereof.

(7) The location of the proposed store for the sale of alcoholic beverages.

(8) The name and address of the owner of the store.

(9) (a) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer.

(b) If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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

Each application shall be accompanied by a non-refundable investigation fee of two hundred and fifty dollars ($250.00). (as added by Ord. #201106, Dec. 2011)

8-103. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws, the ordinances of the city, and the rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages. (as added by Ord. #201106, Dec. 2011)

8-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such

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[1]State law reference

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

reasonable examination as may be desired by the board. (as added by Ord. #201106, Dec. 2011)

8-105. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation, the building inspector for verification and to the city attorney for review, each of whom shall submit their findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed.

The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (as added by Ord. #201106, Dec. 2011)

8-106. Residency requirement.[1] The applicant for a certificate of compliance shall have been a bona fide resident of Henderson County for not less than one (1) year at the time the application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Henderson County for not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #201106, Dec. 2011)

8-107. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting or regulating the sale, possession, transportation, storage, manufacturing or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #201106, Dec. 2011)

8-108. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (as added by Ord. #201106, Dec. 2011)

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[1]State law reference
Tennessee Code Annotated, § 57-3-208(c).

8-109. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned B2 and BP along and adjoining Highway 22 and Highway 412, but in no event shall any establishment be located within five hundred feet (500') of a public or private school, child care facility, hospital, established place of worship, public park, public space, or any other similar public open space or place of public gathering, measured in a straight line[1] between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the public or private school, child care facility, hospital, established place of worship, public park, public space, or any other similar public open space or place of public gathering. Applicant must submit written documentation from a licensed surveyor that confirms the business location complies with these distance requirements. (as added by Ord. #201106, Dec. 2011)

8-110. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (as added by Ord. #201106, Dec. 2011)

8-111. Limitation on number of retailers.[2] There shall be no limit on the number of retail licenses for the sale of alcoholic beverages issued under this chapter. (as added by Ord. #201106, Dec. 2011)

8-112. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (as added by Ord. #201106, Dec. 2011)

8-113. Amusement devices and seating facilities prohibited in retail establishments. No pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in

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[1]State law reference
See Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

[2]State law reference
Tennessee Code Annotated, § 57-3-208(c).

any retail establishment. One (1) radio and/or one (1) television shall be permitted in establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #201106, Dec. 2011, and replaced by Ord. #201301, Jan. 2013)

8-114. Inspection fee. The City of Lexington hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (as added by Ord. #201106, Dec. 2011)

8-115. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #201106, Dec. 2011)

CHAPTER 2

BEER[1]

SECTION

8-201. Beer board established.
8-202. Meetings of the beer board.
8-203. Record of beer board proceedings to be kept.
8-204. Requirements for beer board quorum and action.
8-205. Powers and duties of the beer board.
8-206. "Beer" defined.
8-207. Permit required for engaging in beer business.
8-208. Privilege tax.
8-209. Beer permits shall be restrictive.
8-210. Interference with public health, safety, and morals prohibited.
8-211. Issuance of permits to persons convicted of certain crimes prohibited.
8-212. Prohibited conduct or activities by beer permit holders.
8-213. Suspension and revocation of beer permits.
8-214. Civil penalty in lieu of suspension or revocation.
8-215. Violations.
8-216. Revocation of license.
8-217. Minors in beer places.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board.

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

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The

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[1]Municipal code references
Minors in beer places: § 11-102.
Tax provisions: title 5.
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).

record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this city in accordance with the provisions of this chapter.

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

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars ($250.00).[1] Said fee shall be in the form of a cashier's check payable to the City of Lexington. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, to the City of Lexington, Tennessee. At the time a new permit is issued to any business subject to this

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[1]State law reference
Tennessee Code Annotated, § 57-5-108(c).

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.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, day cares or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the sale of beer for on premises consumption within five hundred (500) feet of any hospital, school, church, day care or other place of public gathering. The distance shall be measured in a straight line[1] from the nearest point on the property line upon which sits the building from which the beer will be sold for on premises consumption to the nearest point on the property line of the hospital, school, church, day care or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a hospital, school, church, day care or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold for on premises consumption at that location during any continuous six-month period after January 1, 1993. (as amended by Ord. #200212, Oct. 2002)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years or who has been convicted of driving under the influence of an intoxicant, drug or

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[1]State law reference
See Watkins v. Naifeh, 625 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

drug producing stimulant; or convicted of public intoxication; or convicted of any crime involving alcohol and/or drugs within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years or who has been convicted of driving under the influence of an intoxicant, drug or drug producing stimulant; or convicted of public intoxication; or convicted of any crime involving alcohol and/or drugs within the past ten (10) years. (as amended by Ord. #200104, June 2001)

8-212. <u>Prohibited conduct or activities by beer permit holders</u>. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

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

(3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; and between 12:01 A.M. Sunday and 1:00 P.M. Sunday, and 6:00 P.M. Sunday to 6:00 A.M. Monday. No beer shall be consumed, or opened for consumption, on or about any premises licensed, in either bottle, glass, or other container, after 12:15 A.M. Tuesday through Sunday nor after 6:15 P.M. on Sunday evening.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

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

(7) Allow drunk persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight. (as amended by Ord. #200102, March 2001)

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

8-214. Civil penalty in lieu of suspension or revocation. Pursuant to Tennessee Code Annotated, § 57-5-108(a)(2) the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. Such penalty may be up to one thousand five hundred dollars ($1,500) for each offense of making or allowing sales to minors and up to one thousand dollars ($1,000) for any other violation. The permit holder shall have seven (7) days to pay aforementioned penalty before the suspension or revocation takes effect. Payment of the penalty does not effect the permit holders right to seek judicial review of the suspension or revocation pursuant to the general laws of the State of Tennessee.

8-215. Violations. Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

8-216. Revocation of license. Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective. The board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession.

8-217. Minors in beer places.[1] (1) Definitions. (a) Minor shall be any person under twenty-one (21) years of age.

(b) Loitering shall mean that a minor may not be allowed in nor stay on the premises of any establishment that sells beer for on premises consumption as hereinafter stated.

(2) No minor shall be allowed to loiter on the premises of any establishment that sells beer for on premises consumption unless such establishment has a gross revenue of seventy percent (70%) of its income derived from the sale of food. (As added by Ord. #200003, March 2000)

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[1]Municipal code reference
Minors in beer places: § 11-102.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. SOLICITATION ROADBLOCKS.
5. TAXICABS.
6. POOL ROOMS.
7. CABLE TELEVISION.
8. ADULT ORIENTED BUSINESS ORDINANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. Farmers market.
9-102. Purchase and sales of food or produce from temporary enclosures prohibited.

9-101. Farmers market. Farmers are authorized to sell such farm produce on the fair grounds that has been grown or produced on their own farms. (Ords. of June 4, 1940; Apr. 4, 1944; Dec. 7, 1948 and July 5, 1955, modified)

9-102. Purchases and sales of food or produce from temporary enclosures prohibited. It shall be unlawful for any person or persons to operate or cause to be operated in the City of Lexington, any retail or wholesale business engaged in the purchase and/or sale of food or produce, either for human or animal consumption, from any temporary, movable or mobile enclosure. (Ord. of Sept. 6, 1956)

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[1]Municipal code references
Building and wiring regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

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

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

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations.

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

(1) Name and physical description of applicant.

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

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

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

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

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

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

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

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

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

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

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

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

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

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

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

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the 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.

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen.

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced.

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

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the

business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing.

9-212. <u>Reapplication</u>. 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.

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

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

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

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

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

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant.

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

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited.

CHAPTER 4

SOLICITATION ROADBLOCKS

SECTION

9-401. Solicitation roadblocks prohibited.
9-402. Definitions.
9-403. Violations.
9-404. [Deleted.]
9-405. [Deleted.]

9-401. Solicitation roadblocks prohibited. Solicitation roadblocks are prohibited on the streets of the City of Lexington. (Ord. #970005, Nov. 1997, as replaced by Ord. #200206, June 2002)

9-402. Definitions. The following terms shall apply in the interpretation and application of this chapter:

(1) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to and used by the public for travel in or upon motor vehicles.

(2) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic. (Ord. #970005, Nov. 1997, as replaced by Ord. #200206, June 2002)

9-403. Violations. Any person violating this chapter shall be subject to punishment under the general penalty provision of the City of Lexington Municipal Code of Ordinances. (Ord. #970005, Nov. 1997, as replaced by Ord. #200206, June 2002)

9-404. [Deleted.] This section was deleted by Ord. #200206, June 2002. (Ord. #970005, Nov. 1997, as deleted by Ord. #200206, June 2002)

9-405. [Deleted.] This section was deleted by Ord. #200206, June 2002. (Ord. #970005, Nov. 1997, as deleted by Ord. #200206, June 2002)

CHAPTER 5

TAXICABS[1]

SECTION

9-501. Taxicab franchise and privilege license required.
9-502. Requirements as to application and hearing.
9-503. Liability insurance required.
9-504. Revocation or suspension of franchise.
9-505. Mechanical condition of vehicles.
9-506. Cleanliness of vehicles.
9-507. Inspection of vehicles.
9-508. License and permit required for drivers.
9-509. Qualifications for driver's permit.
9-510. Revocation or suspension of driver's permit.
9-511. Drivers not to solicit business.
9-512. Parking restricted.
9-513. Drivers to use direct routes.
9-514. Taxicabs not to be used for illegal purposes.
9-515. Miscellaneous prohibited conduct by drivers.
9-516. Transportation of more than one passenger at the same time.
9-517. Fares.

9-501. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license.

9-502. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab

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

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

9-503. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of twenty-five thousand dollars ($25,000.00) for bodily injury or death to any one person, fifty thousand dollars ($50,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and five thousand dollars ($5,000.00) for property damage resulting from any one accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the municipality.

9-504. Revocation or suspension of franchise. The governing body, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver.

9-505. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the city unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab.

9-506. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day.

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution.

9-507. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc.

9-508. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police.

9-509. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(7) Is familiar with the state and local traffic laws.

9-510. Revocation or suspension of driver's permit. The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-509.

9-511. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs.

9-512. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that

taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished.

9-513. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route.

9-514. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose.

9-515. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way.

9-516. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger.

9-517. Fares. Taxicab fares shall be regulated by resolution as the need may arise. Provided, however, that no extra charge shall be made for baggage or parcels.

CHAPTER 6

POOL ROOMS[1]

SECTION

9-601. Prohibited in residential areas.
9-602. Hours of operation regulated.
9-603. Minors to be kept out; exception.

9-601. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes.

9-602. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days.

9-603. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences.

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

CHAPTER 7

CABLE TELEVISION

SECTION

9-701. Board authorized to establish and operate.
9-702. Appropriation of lands.
9-703. Construction and operation.
9-704. Control and management of service.
9-705. Authority to borrow money and issue bonds.

9-701. Board authorized to establish and operate. The board of mayor and aldermen of the City of Lexington are authorized to establish and operate a cable telecommunication service within the confines of the City of Lexington, and Henderson County, Tennessee, and to do and perform every act necessary and incidental thereto. (Ord. of April 14, 1989)

9-702. Appropriation of lands. The board of mayor and aldermen of the City of Lexington are empowered to take and appropriate such lands and grounds, either within or without the limits of the City of Lexington, as they may deem advisable, for the location and operation of the cable telecommunication service. (Ord. of April 14, 1989)

9-703. Construction and operation. The entire work, supervision and control of the purchase, construction, operation, and maintenance of said cable telecommunication service shall be vested in the board of mayor and aldermen of the City of Lexington. It shall be lawful for the board of mayor and aldermen to employ such subordinate officers employees, agents, etc., as may be necessary to transact the business and do the work of constructing and operating said cable telecommunication service, and to delegate to such subordinate officers, employees, agents, etc., such authority and power as may be consistent with good business management. Subordinate officers, employees, agents, etc., shall not have authority to make any contracts binding upon the City of Lexington unless they are expressly authorized so to do by a resolution duly passed by the board of mayor and aldermen of the City of Lexington. The compensation to be paid to all such subordinate officers, employees, agents, etc., must be fixed by resolution which authorizes their appointment, and all such salaries or expenses shall be paid out of the funds or revenues herein provided for. (Ord. of April 14, 1989)

9-704. Control and management of service. The board of mayor and aldermen of the City of Lexington shall have full power and authority by ordinance to make and enforce all reasonable rules and regulations from time to time for the control and management of said cable telecommunication service,

and to set rates for the use of the cable telecommunication service. The city shall have the right to enter upon the premises where cable telecommunication service is used or desired for the purpose of inspecting, repairing, installing, regulating, or terminating the use of said cable telecommunication service. The city shall have the right to terminate said service on the account of the nonpayment of rates. The city shall have the full power and authority to collect and enforce collections of all monies due for the use of said cable telecommunication service or otherwise arising out of the operation of said system. (Ord. of April 14, 1989)

9-705. Authority to borrow money and issue bonds. The board of mayor and aldermen of the City of Lexington shall have full power and authority to borrow monies or to issue bonds necessary for the construction and operation of said cable telecommunication service. (Ord. of April 14, 1989)

CHAPTER 8

ADULT ORIENTED BUSINESS ORDINANCE

SECTION

9-801. Board established.
9-802. License required.
9-803. Permit required.
9-804. Criminal conviction record check.
9-805. Inspections.
9-806. Injunctions.
9-807. Revocation, suspension or annulment of licenses/permits.
9-808. Hearings on disciplinary actions--judicial review--prohibition on operation of business.
9-809. Termination and renewal of licenses/permits.
9-810. Hours open for inspection.
9-811. Duties and responsibilities of operators, entertainers and employees.
9-812. Hours of operation.
9-813. Physical design of premises.
9-814. Location restrictions.
9-815. Exterior portion regulations.
9-816. Signage.
9-817. Sale, use, or consumption of alcoholic beverages prohibited.

9-801. Board established. There is hereby established the Lexington Adult Oriented Business Board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the board. (as added by Ord. #200006, Dec. 2000)

9-802. License required. No adult oriented establishment shall be operated or maintained within the City of Lexington without first making application to and obtaining a license to operate issued by the Lexington Adult Oriented Business Board. The application shall be made on such form as the board shall prescribe and/or furnish in the recorder's office of the Lexington City Hall, and pursuant to Tennessee Code Annotated, § 7-51-1105, and shall be accompanied by a non-refundable application fee of five hundred dollars ($500.00). Said fee shall be in the form of a cashier's check payable to the City of Lexington. Each applicant must meet the qualifications as set forth in Tennessee Code Annotated, § 7-51-1106. A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult oriented business under the authority of a license at any place other than the address designated in the application. (as added by Ord. #200006, Dec. 2000)

9-803. Permit required. No person shall be an entertainer, employee, or escort in an adult-oriented establishment without first making application to and obtaining a permit issued by the Lexington Adult Oriented Business Board. The application shall be made on such form as the board shall prescribe and/or furnish in the recorder's office of the Lexington City Hall, and pursuant to Tennessee Code Annotated, § 7-51-1116, and shall be accompanied by a non-refundable application fee of one hundred dollars ($100.00). Said fee shall be in the form of a cashier's check payable to the City of Lexington. Each applicant must meet the qualifications as set forth in Tennessee Code Annotated, § 7-51-1117. (as added by Ord. #200006, Dec. 2000)

9-804. Criminal conviction record check. Conducting a criminal conviction record check of an applicant for an adult oriented business license or an adult oriented business permit is for law enforcement purposes; therefore, all applicants will provide fingerprints for use in the investigation pursuant to Tennessee Code Annotated, § 7-51-1122. The cost of fingerprinting shall be paid by the applicant in addition to the application fee. (as added by Ord. #200006, Dec. 2000)

9-805. Inspections. In order to effectuate the provisions of this ordinance, the board and/or its authorized representative is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and establishment for compliance as set forth in Tennessee Code Annotated, § 7-51-1107. (as added by Ord. #200006, Dec. 2000)

9-806. Injunctions. The board has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this ordinance and is further empowered to enter into any such court to enforce the provisions of this ordinance in order to ensure compliance with such provisions. Tennessee Code Annotated, § 7-51-1118. (as added by Ord. #200006, Dec. 2000)

9-807. Revocation, suspension or annulment of licenses/permits. The board shall revoke, suspend or annul a license under the conditions and for causes set forth in Tennessee Code Annotated, § 7-51-1109. (as added by Ord. #200006, Dec. 2000)

9-808. Hearings on disciplinary actions--judicial review--prohibition on operation of business. Whenever an application for a

(1) License,
(2) Permit,
(3) License renewal or

(4) Permit renewal

is denied, the board shall act in accordance with Tennessee Code Annotated, § 7-51-1110. The board shall have the burden of showing that a denial of an application under this section is not arbitrary or capricious. (as added by Ord. #200006, Dec. 2000)

9-809. Termination and renewal of licenses/permits. Every license issued under this ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Application for renewal must be filed not later than sixty (60) days before the license expires pursuant to Tennessee Code Annotated, § 7-51-1111 and shall be accompanied by a non-refundable application fee of one hundred dollars ($100.00).

Every permit issued under this ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before an entertainer, employee, or escort for an adult oriented business may work in the following year. Application for renewal must be filed not later than thirty (30) days before the license expires pursuant to Tennessee Code Annotated, § 7-51-1111 and shall be accompanied by a non-refundable application fee of fifteen dollars ($15.00).

Notwithstanding anything herein to the contrary, any application for renewal of a license or a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this part for the original applications. In the event a renewal application is denied, the applicant shall have all rights of appeal to the board set forth in Tennessee Code Annotated, § 7-51-1110. (as added by Ord. #200006, Dec. 2000)

9-810. Hours open for inspection. The public portion of all adult-oriented establishments shall be open to inspection at all reasonable times by the applicable law enforcement department or such other persons as the board may designate. (as added by Ord. #200006, Dec. 2000)

9-811. Duties and responsibilities of operators, entertainers and employees. The duties and responsibilities of operators, entertainers and employees of adult oriented businesses are set forth in Tennessee Code Annotated, § 7-51-1113 with prohibited activities set forth in Tennessee Code Annotated, § 7-51-1114. All operators, entertainers and employees of adult oriented businesses found in violation of this part or any part of this ordinance shall be penalized according to Tennessee Code Annotated, § 7-51-1119. (as added by Ord. #200006, Dec. 2000)

9-812. Hours of operation. No adult oriented establishment shall be open to do business before eight o'clock A.M. (8:00 A.M.), Monday through Saturday; and no such establishment shall remain open after twelve o'clock

(12:00) midnight, Monday through Saturday. No adult oriented establishment shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101. Any violation of this section will be penalized according to Tennessee Code Annotated, § 7-51-1404. (as added by Ord. #200006, Dec. 2000)

9-813. Physical design of premises. No person shall own, operate, manage, rent, lease or exercise control over any commercial building, structure, premises or portion or part thereof, which is an adult oriented establishment and is not in compliance with Tennessee Code Annotated, § 7-51-1403. Any violation of this section will be penalized according to Tennessee Code Annotated, § 7-51-1404. (as added by Ord. #200006, Dec. 2000)

9-814. Location restrictions. Adult oriented business shall be permitted in any district zoned for business provided that it may not be operated within one thousand (1,000) feet of a

(1) Church, synagogue or regular place of religious worship,
(2) A public or private elementary or secondary school,
(3) A boundary of any residential district,
(4) A public park,
(5) A licensed day-care center,
(6) An entertainment business that is oriented primarily toward children or family entertainment, or
(7) Another adult oriented business.

For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of one property line to the nearest portion of the other property line. (as added by Ord. #200006, Dec. 2000)

9-815. Exterior portion regulations. It shall be unlawful for an owner or operator of an adult oriented business to

(1) Allow the merchandise or activities of the establishment to be visible from a point outside the establishment,
(2) Allow the exterior portion of the business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance, or
(3) Allow exterior portions of the establishment to be painted any color other than a single achromatic color except if the establishment is a part of a commercial multi-unit center and the exterior portions of each individual unit are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center. Nothing in this article shall be construed to require the

painting of an otherwise unpainted exterior portion. A violation of this section shall constitute a misdemeanor. (as added by Ord. #200006, Dec. 2000)

9-816. Signage. All signs must conform to the regulations set forth in the City of Lexington Zoning Ordinance and shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise. Each letter forming a word shall be a solid color and be the same print type, size and color. The background behind such lettering on the display surface of the sign shall be of a uniform and solid color. (as added by Ord. #200006, Dec. 2000)

9-817. Sale, use, or consumption of alcoholic beverages prohibited. The sale, use, or consumption of alcoholic beverages on the premises of an adult oriented business is prohibited. Any violation of this section shall constitute a misdemeanor. (as added by Ord. #200006, Dec. 2000)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

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

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

Dogs will be picked up after the city has provided an adequate facility to take care of them. (Ord. of July 11, 1975)

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 (1,000) feet of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. This does not include any farming operation containing ten (10) acres or more. (Ord. of July 11, 1975)

10-103. 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. (Ord. of July 11, 1975)

10-104. 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. (Ord. of July 11, 1975)

10-105. 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. (Ord. of July 11, 1975)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (Ord. of July 11, 1975)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. The notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen. (Ord. of July 11, 1975)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the department of health, or its authorized representative, shall be authorized to enter, at any reasonable time, any premises where it has reasonable cause to believe an animal or fowl is being kept in violation of this title.

CHAPTER 2

DOGS

SECTION

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

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

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

10-203. Running at large, etc.[1] (1) No person having the custody or control of any dog or other animal of the canine species shall permit the same to be on any unfenced area or lot upon any private land without same being effectively restrained from moving beyond such unfenced area or lot; nor shall any person having custody or control of any dog or other animal of the canine species permit the same to be on any street, public park, school ground, or public place at any time without being effectively restrained by a chain or leash not exceeding eight (8) feet in length.

(2) Any person having custody or control of any dog or other animal of the canine species shall have the responsibility for cleaning up the feces of the animal and to dispose of such in a sanitary manner.

(3) The provisions of this chapter shall not apply to the ownership or use of seeing eye dogs by the visually impaired nor to dogs used in law enforcement activities within the city.

(4) No person having the custody or control of any female dog or other member of the canine species shall permit the same to be in any public place while it is in heat, but shall keep such animal confined so that it cannot come

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[1]State law reference
Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

into contact with another dog or member of the canine species whether on public or private property except for breeding purposes.

(5) The animal control officer of the City of Lexington or city employee in charge of animal control is hereby empowered to issue citations to those believed to be in violation of this chapter requiring said violators to appear before the municipal court of the City of Lexington at the day and time listed on the face of such citation.

(6) Any person found guilty of violating this chapter shall be subject to a penalty in accordance with the general penalty provision of the municipal code of the City of Lexington. (Ord. of Jan. 4, 1996)

10-204. Vicious dogs. (1) Definition of terms. As used in this section:

(a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

(b) "Vicious dog" means:

(i) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

(ii) Any dog which because of its breed, size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this section;

(iii) Any dog which, without provocation, attacks, or bites, or has attacked or bitten, a human being or domestic animal; or

(iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any trained dogs for fighting.

(2) The dog catcher of the City of Lexington or the board of mayor and aldermen may after investigation declare an animal to be a "vicious dog". Appeal of a decision by the dog catcher shall be to the board of mayor and aldermen and the City of Lexington, Tennessee.

(3) Declaration of an animal as a vicious dog. A dog declared a "vicious dog" shall be placed in the custody of the City of Lexington until the owner complies with the provisions of this section. The owner shall pay all expenses of housing and feeding the animal. In the event the owner fails to comply with these provisions within 30 days of any decision by the city the animal in question shall be destroyed.

(4) Confinement. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured

to the sides, it must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(5) Leash and muzzle. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent from biting any human or animal.

(6) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning indicating that there is a vicious dog on the premises. (Ord. of March ___, 1996)

10-205. Noisy dogs prohibited. 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.

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the chief of police or any policeman.[1]

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[1]State law reference

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

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

1. ALCOHOL.
2. [DELETED.]
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. GENERALLY.

CHAPTER 1

ALCOHOL[2]

SECTION

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

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 in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and a license for on premises consumption. (Ord. of Feb. 6, 1940)

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[1]Municipal code references
Animals and fowls: title 10.
Housing and utilities: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

[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).

11-102. **Minors in beer places**. No person under the age of twenty-one (21) shall loiter in or around, or otherwise frequent any place where beer is sold at retail for consumption on the premises.

CHAPTER 2

[DELETED.]

(as deleted by Ord. #200703, March 2007)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery.

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.
11-402. Anti-noise regulations.

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

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

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

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of 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, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper 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 week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

(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 impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. 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. (Ord. of Sept. 3, 1940)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement.
11-502. Impersonating a government officer or employee.
11-503. False emergency alarms.
11-504. Resisting or interfering with an officer.
11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement.

11-502. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee.

11-503. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act.

11-504. Resisting or interfering with an officer. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (Ord. of July 5, 1955)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing.

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.
11-602. Throwing missiles.
11-603. Weapons and firearms generally.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method.

The only exception to the above prohibition may be made for approved gun safety and gun education events at which only "BB" guns may be fired, under controlled and monitored conditions. No other weapons of any type may be fired at such events. Persons seeking to hold a "BB" gun safety event must apply for a permit from the city, and must submit an application fee of twenty-five dollars ($25.00). The applicant must provide

(1) A specific description of the event;

(2) Drawings or photographs of equipment to be used;

(3) A written safety plan to ensure that no projectiles will travel beyond the property line or other limits set by the city;

(4) A drawing of the property on which the event will be held as well as the signed permission of the property owner; and,

(5) Proof of insurance in an amount of at least three hundred thousand dollars ($300,000.00) for each person and seven hundred thousand dollars ($700,000.00) for each accident, and for property damages not less than one hundred thousand dollars ($100,000.00) for each accident.

No permission will be granted for any such event in a residential area. The event will only be approved for a specified period of time and operated only during such hours as approved by the city. Upon the filing of an application, the police chief shall conduct a background check of the responsible applicant, and shall investigate the safety plan and other documentation filed by the applicant. If the background check does not reveal any felony convictions or any charges related to weapons, and if the other documentation is approved by the police chief, the application may be approved by the city. (as amended by Ord. #201203, March 2012)

11-602. Throwing missiles. It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person.

11-603. <u>Weapons and firearms generally</u>. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knuckles, pistol, revolver, or any other dangerous weapon or instrument. However, the preceding prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. Persons who possess a valid handgun carry permit issued by the State of Tennessee may carry a handgun in accordance with the permit and applicable Tennessee laws governing the carrying of a handgun.

It shall also be unlawful for any unauthorized person to discharge a firearm within the municipality, except that nothing in this code shall be interpreted to prohibit a sanctioned Honor Guard of the VFW, American Legion or any branch of the United States Armed Forces from the ritual discharge of blank ammunition cartridges at a funeral service for a veteran of the United States Armed Forces or at the practice sessions by these organizations to prepare for these ceremonies. (as replaced by Ord. #201506, Oct. 2015)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

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

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

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

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him.

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon.

11-704. Skateboards. (1) A "skateboard" shall be defined as any board or platform device that travels upon wheels, of a style commonly occurring on roller skates, with a rider, and that is powered by human propulsion or gravity.

(2) Any use of a skateboard shall be prohibited in the area within the corporate boundary of the City of Lexington which is zoned B-3.

(3) All operators of a skateboard shall yield the right-of-way to any pedestrian. (Ord. #970006, Nov. 1997)

CHAPTER 8

MISCELLANEOUS

SECTION

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

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

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

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (Ord. of June 8, 1937)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor.

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

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

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

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

(4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume.

CHAPTER 9

GENERALLY

SECTION

11-901. Misdemeanor of the state adopted.
11-902. Financial responsibility.

11-901. Misdemeanor of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against the City of Lexington also. Any violation of any such law within the corporate limits is also a violation of this section. (As added by Ord. #200002, March 2000)

11-902. Financial responsibility. (1)Effective January 1, 2002, every vehicle operated within the corporate limits of the City of Lexington, must be in compliance with the Tennessee Financial Responsibility law.

(2) At the time a driver of a motor vehicle is charged with any moving violation under title 55 of the Tennessee Code Annotated, chapters 8 and 10, parts 1 through 5, or chapter 50; or any city ordinance regulating the operation of motor vehicles within the city under this section; or the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For purposes of § 11-902 "Proof of Financial Responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1997 has been issued; or,

(b) A certificate, valid for one (1) year, issued by the Commission of the Department of Safety, stating that a cash deposit or bond of the amount required by the Tennessee Financial Responsibility Law of 1997 has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being with the owner's consent.

(4) It is an offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a fine of fifty ($50.00), plus court cost. The fine imposed by this section shall be in addition to any other fine imposed for any other violations of state law or any other ordinance under the city code.

(5) On or before the court date for the hearing of the citation for failure to provide financial responsibility as required by this section, the person so charged may submit evidence of compliance with this section at the time of the violation to the city court clerk. If the city judge is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #200201, Feb. 2002)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. [DELETED.]
3. GAS CODE.
4. [DELETED.]
5. AMUSEMENT DEVICE CODE.
6. SWIMMING POOL CODE.
7. UNSAFE BUILDING ABATEMENT CODE.
8. [DELETED.]
9. EXISTING BUILDINGS CODE.

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. International building code adopted.
12-102. Definitions.
12-103. Available in recorder's office.
12-104. Violations and penalty.

12-101. International building code adopted. (1) Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Energy Conservation Code, edition 2012 IECC; International Building Code, edition 2012 IBC; International Residential Code, edition 2012 IRC; International Plumbing Code, edition 2012 IPC; International Mechanical Code, edition 2012 IMC; and, International Fuel Gas Code, edition 2012 IFGC, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by

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

reference as a part of this code, and are hereinafter referred to as the International Building Code.[1]

(2) The exception to International Residential Code Section R313.1 Townhouse automatic fire sprinkler systems is hereby deleted and replaced with the following language: An automatic residential fire sprinkler system shall not be required if a 2 hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/ or mechanical equipment, ducts, or vents in the common wall.

(3) International Residential Code Section R313.2, One- and two-family dwellings automatic fire systems is hereby deleted in its entirety. (Ord. of May 20, 1967, as amended by Ord. #980001, Feb. 1998, and replaced by Ord. #200901, Feb. 2009, and Ord. #201405, July 2014, and amended by Ord. #201602, May 2016, and Ord. #201607, Nov. 2016, and Ord. #201802, Feb. 2018)

12-102. Definitions. Whenever within the above said codes, reference is made to the duties of a certain official named therein, the designated official of Lexington who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the above said codes are concerned. (Ord. of May 20, 1967, as amended by Ord. #980001, Feb. 1998, modified, and replaced by Ord. #200901, Feb. 2009)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of these codes has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. of May 20, 1967, modified, as replaced by Ord. #200901, Feb. 2009)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of these codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #200901, Feb. 2009)

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

CHAPTER 2

[DELETED.]

(Ord. #980001, Feb. 1998, as deleted by Ord. #200901, Feb. 2009)

CHAPTER 3

GAS CODE[1]

SECTION

12-301. Title and definitions.
12-302. Purpose and scope.
12-303. Use of existing piping and appliances.
12-304. Bond and license.
12-305. Gas inspector and assistants.
12-306. Powers and duties of inspector.
12-307. Permits.
12-308. Inspections.
12-309. Certificates.
12-310. Fees.
12-311. Violations and penalties.
12-312. Nonliability.

12-301. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the city. The following definitions are provided for the purpose of interpretation and administration of the gas code.

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

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

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

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

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

12-302. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall

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[1]Municipal code reference
Gas system administration: title 19, chapter 2.

conform to the requirements of this chapter and to the Standard Gas Code,[1] 1997 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (Ord. of May 20, 1967, as amended by Ord. #980001, Feb. 1998, modified)

12-303. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code.

12-304. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the mayor a good and sufficient bond in the penal sum of $10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

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

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees.

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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.

12-305. <u>Gas inspector and assistants</u>. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen.

12-306. <u>Powers and duties of inspector</u>. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

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

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

12-307. <u>Permits</u>. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the mayor; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

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

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

12-308. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

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

12-309. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service.

12-310. Fees. The permit fee schedule as recommended in Appendix "B" of the gas code is hereby adopted.

12-311. Violations and penalties. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed.

12-312. Nonliability. This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector.

CHAPTER 4

[**DELETED**.]

(Ord. #980001, Feb. 1998, as deleted by Ord. #200901, Feb. 2009)

CHAPTER 5

AMUSEMENT DEVICE CODE[1]

SECTION

12-501. Amusement device code adopted.
12-502. Modifications.
12-503. Available in recorder's office.
12-504. Violations.

12-501. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,[2] 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (Ord. #980001, Feb. 1998, modified)

12-502. Modifications. Definitions. When reference is made to the duties of a certain official named therein, the designated official of Lexington who has duties corresponding to those of the named official in the amusement device code shall be deemed to be the responsible official insofar as enforcing the provisions of the code is concerned. (Ord. #980001, Feb. 1998, modified)

12-503. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the amusement device code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

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

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

CHAPTER 6

SWIMMING POOL CODE[1]

SECTION

12-601. Swimming pool code adopted.
12-602. Modifications.
12-603. Available in recorder's office.
12-604. Violations.

12-601. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,[2] 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #980001, Feb. 1998, modified)

12-602. Modifications. Definitions. When reference is made to the duties of a certain official named therein, the designated official of Lexington who has duties corresponding to those of the named official in the swimming pool code shall be deemed to be the responsible official insofar as enforcing the provisions of the code is concerned. (Ord. #980001, Feb. 1998, modified)

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

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

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

CHAPTER 7

UNSAFE BUILDING ABATEMENT CODE

SECTION

12-701. Unsafe building abatement code adopted.
12-702. Modifications.
12-703. Available in recorder's office.
12-704. Violations.

12-701. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating buildings and structures to insure structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, within or without the city, the Standard Unsafe Building Abatement Code,[1] 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the unsafe building abatement code. (Ord. #980001, Feb. 1998, modified)

12-702. Modifications. Definitions. When reference is made to the duties of a certain official named therein, the designated official of Lexington who has duties corresponding to those of the named official in the unsafe building abatement code shall be deemed to be the responsible official insofar as enforcing the provisions of the code is concerned. (Ord. #980001, Feb. 1998, modified)

12-703. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the unsafe building abatement code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified.

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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 8

[DELETED.]

(Ord. #980001, Feb. 1998, as deleted by Ord. #200901, Feb. 2009)

CHAPTER 9

EXISTING BUILDINGS CODE[1]

SECTION

12-901. Existing buildings code adopted.
12-902. Modifications.
12-903. Available in recorder's office.
12-904. Violations.

12-901. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the Standard Existing Buildings Code,[2] 1997 edition, as prepared by the Southern Building Code Congress International, Inc., is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the standard existing buildings code. (Ord. #980001, Feb. 1998, modified)

12-902. Modifications. When reference is made to the duties of a certain official named therein, the designated official of Lexington who has duties corresponding to those of the named official in the existing buildings code shall be deemed to be the responsible official insofar as enforcing the provisions of the code is concerned. (Ord. #980001, Feb. 1998, modified)

12-903. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the standard existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public.

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard existing buildings code or any final order made pursuant thereto. Such violation is declared an offense against the city and for which punishment shall be a fine of not more than $50 for each such violation. Each day that a violation occurs shall be deemed a separate offense.

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

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

The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the city by any person, firm or corporation found to be in such violation.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. [DELETED.]
5. [DELETED.]
6. [DELETED.]
7. BUILDING MAINTENANCE DEPARTMENT.

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Smoke, soot, cinders, etc.
13-102. Stagnant water.
13-103. Weeds and grass.
13-104. Overgrown and dirty lots.
13-105. Dead animals.
13-106. Health and sanitation nuisances.
13-107. Violations and penalty.
13-108. Outdoor storage of furniture, construction waste, etc.
13-109. Junked vehicles.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the building inspector to cut such vegetation when it has reached a height of over one (1) foot.

Notice shall be provided by registered mail, return receipt requested or by leaving a copy of the notice at the residence requesting that the property be mowed. Said notice shall comply with the notice requirements as set out in § 13-104(4). In the event that the property is not mowed with five (5) days the building inspector shall, at his discretion, cause the property to be mowed and shall continue mowing the property leaving a notice at the residence after each mowing until such time as mowing is no longer necessary.

Unless otherwise paid, this cost shall be placed as a lien against the property and shall be placed on the property taxes of the City of Lexington and shall be collected as any other delinquent property tax as set out in § 13-104(5). Appeal in judicial review are herein provided as set out in§ 13-104(6)(7). (as added by Ord. #200406, Aug. 2004, and amended by Ord. #200803, July 2008)

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall apply to all parcels of property within the city limit boundaries of the City of Lexington.

(3) Designation of public officer or department. The board of mayor and aldermen do hereby designate the building inspector as the public officer to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Lexington Municipal Code, which has been enacted under the authority of the Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice indicating the desire for a hearing.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in county, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the city recorder. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other

applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (as added by Ord. #200406, Aug. 2004, amended by Ord. #201404, July 2014)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the office of the city recorder and dispose of such animal in such manner as the city recorder shall direct. (as added by Ord. #200406, Aug. 2004)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (as added by Ord. #200406, Aug. 2004)

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continued shall constitute a separate offense. (as added by Ord. #200406, Aug. 2004)

13-108. Outdoor storage of furniture, construction waste, etc.

(1) It shall be unlawful for any person to permit any furniture or other household goods, including sofas, divans, recliners, refrigerators, ranges, washing machines, clothes dryers, and similar objects, which are not designed for outdoor use, to be maintained or located on any porch, lawn, parking lot, driveway or public right-of-way.

(2) It shall be unlawful for any person to permit the accumulation of construction waste upon a lot in the City of Lexington. The term "construction waste" shall mean materials from construction, demolition, remodeling, construction site preparation, including but not limited to rocks, trees, debris, dirt, bricks, fill, plaster, and all types of scrap building materials.

(3) It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy or littered condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public

health or the annoyance of people residing within the vicinity. (as added by Ord. #200504, May 2005)

13-109. Junked vehicles. (1) Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(a) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(b) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(c) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(d) Vehicle definitions shall be as follows:

(i) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(ii) "Junk 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, or 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 angle), sitting on block 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) Violations are civil offense. It shall be unlawful and a civil offense for any person:

(a) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(b) To park or in any other manner place and leave unattended on the un-traveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(c) To park, store, keep or maintain on private property a junk vehicle for more than sixty (60) days.

(3) Exceptions. (a) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(i) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(ii) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(b) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

(4) Enforcement. The building inspector shall upon the complaint of any citizen, or acting on his own initiative, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall serve upon the property owner a notice in plain language to remedy the condition within fifteen (15) days of date of notice. The notice shall be sent by registered or certified United States mail. If the offender refuses to comply with notice, the building inspector shall request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et. seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

(5) Penalty for violation. Any person violating this section shall be subject to a civil penalty of fifty dollars ($50.00) plus court costs for each separate violation of this section. Each day the violation of this section continues shall constitute a separate violation. (as added by Ord. #200507, June 2005)

CHAPTER 2

SLUM CLEARANCE

SECTION

13-201. Findings of board.
13-202. Definitions.
13-203. "Public officer" designated; powers.
13-204. Initiation of proceedings; hearings.
13-205. Orders to owners of unfit structures.
13-206. When public officer may repair, etc.
13-207. When public officer may remove or demolish.
13-208. Lien for expenses; sale of salvage materials; other powers not limited.
13-209. Basis for a finding of unfitness.
13-210. Service of complaints or orders.
13-211. Enjoining enforcement of orders.
13-212. Additional powers of public officer.
13-213. Powers conferred are supplemental.
13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-202. 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) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the City of Lexington, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "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.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(8) "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 this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," who shall be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the city recorder (as the designated agent of the public officer) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the city recorder determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] if the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall 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 county [the county in which the property lies], be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. The municipal tax collector or county trustee shall collect these costs at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner

through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against who 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 public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of county by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Lexington to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Lexington. 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 uncleanliness. (Ord. of Sept. 3, 1940, as replaced by Ord. #200406, Aug. 2004)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, 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 county, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as replaced by Ord. #200406, Aug. 2004)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill

in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) says after the posting and service of the order of the public officer, such person shall file such bill in the court. The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as replaced by Ord. #200406, Aug. 2004)

13-212. <u>Additional powers of the public officer</u>. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. of June 26, 1962, as replaced by Ord. #200406, Aug. 2004)

13-213. <u>Powers conferred are supplemental</u>. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #200406, Aug. 2004)

13-214. <u>Structures unfit for human habitation deemed unlawful</u>. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to the dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town. Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #200406, Aug. 2004)

CHAPTER 3

JUNKYARDS

SECTION

13-301. Definitions.
13-302. Junkyard screening.
13-303. Screening methods.
13-304. Requirements for effective screening.
13-305. Maintenance of screens.
13-306. Utilization of highway right-of-way.
13-307. Non-conforming junkyards.
13-308. Permits and fees.
13-309. Violations and penalty.

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business, trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plants, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds, which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plants, or other appropriate objects to form an effective screen. (Ord. of July 11, 1975, as replaced by Ord. #200406, Aug. 2004)

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plants, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens, which provide a "see-through" effect when viewed from a moving vehicle, shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (as added by Ord. #200406, Aug. 2004)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plants, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city. If not replaced within sixty (60) days the city shall replace said screening and shall require payment upon demand. Failure to pay in full shall result in the fee plus interest to be assessed to the property

and shall be combined with the subsequent taxation of the property by the city. (as added by Ord. #200406, Aug. 2004)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (as added by Ord. #200406, Aug. 2004)

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming."

Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

(1) The junkyard must continue to be lawfully maintained.

(2) There must be existing property rights in the junk or junkyard.

(3) Abandoned junkyards shall no longer be lawful.

(4) The location of the junkyard may not be charged for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

(5) The junkyard may not be extended or enlarged. (as added by Ord. #200406, Aug. 2004)

13-308. Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "Junkyard Control Permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars ($50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permitted and for the location for which it is issued. (as added by Ord. #200406, Aug. 2004)

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #200406, Aug. 2004)

CHAPTER 4

(This chapter was deleted by Ord. #200406, Aug. 2004)

CHAPTER 5

(This chapter was deleted by Ord. #200406, Aug. 2004)

CHAPTER 6

(This chapter was deleted by Ord. #200406, Aug. 2004)

CHAPTER 7

BUILDING MAINTENANCE DEPARTMENT

SECTION

7-101. Maintenance for buildings owned by the City of Lexington.

7-101. Maintenance for buildings owned by the City of Lexington.

(1) A facilities maintenance department shall be developed within the City of Lexington as a part of the public works department and under the supervision of the public works director for the purpose of general maintenance of city owned buildings.

(2) A facilities maintenance supervisor, under the direct supervision of the public works director, shall manage the operations of this department. This position shall be housed at Caywood Elementary School due to the operation of the Metasys System and the magnitude of maintenance required for the Lexington City School System.

(3) Maintenance of all city owned building facilities, with the exception of the Lexington Electric System, shall be directed through this department supervisor. Approved city procedures for purchasing, bidding, etc. shall be applied.

(4) Labor performed by city employees of this department for maintenance on facilities housing the Lexington Gas System and Lexington Water Systems shall be billed to the respective systems at cost plus benefits.

(5) The costs of materials and contracted services for maintenance on facilities housing the Lexington Gas System, Lexington Water Systems, and the Lexington City School System shall be the responsibility of each department respectively.

(6) Lexington City School System shall be required to contribute a minimum of thirty thousand dollars ($30,000.00) per year toward the operational costs of this department with the understanding that this amount is subject to change upon annual budgetary needs as set by approval of the board of aldermen.

(7) Lexington City School System also shall be required to fund:

(a) The actual annual cost including all benefits of one (1) maintenance department hourly employee; and

(b) The cost of materials for the upkeep of one (1) maintenance department truck.

(8) These provisions may be amended and/or other provisions may be added as deemed necessary through proper adoption by ordinance.

This chapter shall take effect upon the passage of the ordinance comprising it on its second and final reading, the public welfare requiring it. (as added by Ord. #200904, Sept. 2009)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. LAND TO BE GOVERNED BY USE AND TRANSPORTATION PLAN.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation and membership.
14-102. Organization, powers, duties, etc.
14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of nine (9) members; two (2) of these shall be the mayor and another member of the board of alderman selected by the board of mayor and aldermen; the other seven (7) members shall be appointed by the mayor. All members shall be compensated in an amount determined by the board of mayor and alderman. Except for the initial appointments, the terms of the seven (7) members appointed by the mayor shall be for five (5) years each. The seven (7) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) members respectively so that the term of one (1) member expires each year. Two (2) of the members with an initial appointment of one (1) year and two (2) year terms shall reside within the regional area outside the municipal boundaries in accordance with Tennessee Code Annotated, § 13-3-102 as amended by Public Chapter No. 253, Public Acts 2007 and as referenced in §§ 14-102 and 14-103 of this municipal code. The terms of the mayor and the member elected by the board of mayor and alderman shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove any appointive member at his or her will and pleasure. (Ord. of Jan. 14, 1947, modified, as replaced by Ord. #200707, Aug. 2007)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (Ord. of Jan. 14, 1947)

14-103. <u>Additional powers</u>. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (Ord. of Jan. 14, 1947)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Lexington shall be governed by the "Zoning Ordinance, Lexington, Tennessee," of June 3, 1969, and any amendments thereto.[1]

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[1]The zoning ordinance of June 3, 1969, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

Amendments to the zoning map are of record in the office of the city recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-301. Flood damage control to be governed by flood damage prevention ordinance.

14-301. Flood damage control to be governed by flood damage prevention ordinance. Regulations governing flood damage control within the City of Lexington shall be governed by the "Lexington Municipal Floodplain Zoning Ordinance" and any amendments thereto.[1]

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[1]The Lexington Municipal Floodplain Zoning Ordinance and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 4

LAND TO BE GOVERNED BY USE AND TRANSPORTATION PLAN

SECTION

14-401. Physical development of land to be governed by use and transportation plan.

14-401. Physical development of land to be governed by use and transportation plan. Land use and transportation within the City of Lexington shall be governed by the Vision Lexington 2025 Land Use and Transportation Plan[1] adopted by the Lexington Municipal-Regional Planning Commission. (As added by Ord. #201604, July 2016)

[1]Resolution #16-01 of February 22, 2016 and any amendments thereto are available in the recorder's office.

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.

CHAPTER 1

MISCELLANEOUS[2]

SECTION

15-101. Motor vehicle requirements.
15-102. Driving on streets closed for repairs, etc.
15-103. Reckless driving.
15-104. One-way streets.
15-105. Unlaned streets.
15-106. Laned streets.
15-107. Yellow lines.
15-108. Miscellaneous traffic-control signs, etc.
15-109. General requirements for traffic-control signs, etc.
15-110. Unauthorized traffic-control signs, etc.
15-111. Presumption with respect to traffic-control signs, etc.
15-112. School safety patrols.
15-113. 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.

15-114. Clinging to vehicles in motion.
15-115. Riding on outside of vehicles.
15-116. Backing vehicles.
15-117. Projections from the rear of vehicles.
15-118. Causing unnecessary noise.
15-119. Passing.
15-120. Damaging pavements.
15-121. Bicycle riders, etc.
15-122. Adoption of state traffic statutes.

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. (Ord. of Nov. 15, 1921, as amended by Ord. of July 3, 1923)

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.

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property.

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the 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.

15-106. **Laned streets**. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

15-107. **Yellow lines**. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-108. **Miscellaneous traffic-control signs, etc**.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer.

15-109. **General requirements for traffic-control signs, etc**. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,[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.

15-110. **Unauthorized traffic-control signs, etc**. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles

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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.

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.

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority.

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place.

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after

sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

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.

15-120. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street.

15-121. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section.

No person shall operate or ride upon any motorcycle, motorbike, or motor driven cycle unless such person is equipped with and wearing on the head a safety helmet with a secured chin strap and suspension lining, which said helmet shall conform to the type and design manufactured for the use of the operators and riders of such motor vehicles.

15-122. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, and Tennessee Code Annotated, § 55-10-307, the City of Lexington adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, §§ 55-8-133 through 55-8-150, and §§ 55-8-152 through 55-8-180. Additionally, the City of Lexington adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-21-108 by reference as if fully set forth in this section.

(As added by Ord. #200002, March 2000, and replaced by Ord. #201703, April 2017)

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.

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. <u>Following emergency vehicles</u>. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Ord. of Feb. 6, 1951)

15-204. <u>Running over fire hoses, etc</u>. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (Ord. of Feb. 6, 1951)

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. (Ord. of Dec. 13, 1937)

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. (Ord. of Dec. 13, 1927)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police.

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality.

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]

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.

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways.

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

15-405. U-turns. U-turns are prohibited within Court Square or on any street within one block of such square. (Ord. of Feb. 2, 1954)

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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, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (Ord. of Feb. 6, 1951)

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.

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.

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

15-504. <u>At railroad crossings</u>. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

15-505. <u>At "stop" signs</u>. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety.

15-506. <u>At "yield" signs</u>. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted.

15-507. <u>At traffic-control signals generally</u>. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) <u>Green alone, or "Go"</u>:

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) <u>Steady yellow alone, or "Caution"</u>:

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal.

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (Ord. of Jan. 8, 1936)

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. (Ord. of Jan. 8, 1936)

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.

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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. 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 (18) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

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 (24) feet.

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space.

15-604. <u>Where prohibited</u>. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk or in an alley except for loading and unloading.

(2) In front of a public or private driveway.

(3) Within an intersection or within fifteen (15) feet thereof.

(4) Within fifteen (15) feet of a fire hydrant.

(5) Within a pedestrian crosswalk.

(6) Within fifty (50) feet of a railroad crossing.

(7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.

(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.

(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(10) Upon any bridge.

(11) Alongside any curb painted yellow or red by the city.

(12) Stop, stand or park with the left side of the vehicle to the curb, except one way streets. (Ord. of Oct. 2, 1928, as amended by Ord. of May 2, 1950)

15-605. <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone.

15-606. <u>Presumption with respect to illegal parking</u>. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (Ord. of May 6, 1952)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Impoundment of vehicles.
15-705. Disposal of abandoned motor vehicles.
15-706. Violation and penalty.

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.

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.

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.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is illegally

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[1]State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

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 or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars ($5.00) and the storage cost shall be one dollar ($1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored.

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109.

15-706. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. The offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of ten dollars ($10.00) provided he waives his right to a judicial hearing.

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. STREETLIGHTS.

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. Littering streets, alleys, or sidewalks prohibited.
16-108. Obstruction of drainage ditches.
16-109. Abutting occupants to keep sidewalks clean, etc.
16-110. Parades regulated.
16-111. Animals and vehicles on sidewalks.
16-112. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley or sidewalk. (as replaced by Ord. #2012211, Sept. 2012)

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, shrub, sign, 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.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1]

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen.

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute.

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (Ord. of Aug. 7, 1939)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (Ord. of July 7, 1955)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-110. Parades regulated. (1) Definitions. For purposes of this section, a parade is defined as any organized public procession on a street or roadway for the purpose of celebrating an event or occurrence or for the purpose of public demonstration. A funeral procession does not constitute a parade for purposes of this section.

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[1]Municipal code reference
Building code: title 12, chapter 1.

(2) Parade application procedure. All individuals, groups, or entities, "applicant," that propose to conduct a parade upon any street within the city limits of the City of Lexington shall comply with the following procedures:

(a) The application shall be submitted to city hall no less than thirty (30) calendar days or more than sixty (60) calendar days prior to the date and time of the commencement of the parade.

(b) The police chief, fire chief and mayor will review and approve or deny all parade applications. Approval shall be by unanimous agreement only. If approved, the application will be forwarded to the city recorder's office for issuance of a permit.

(c) It shall be a civil offense for an individual, group or entity to knowingly organize, engage in, participate in, aid or commence a parade upon any street of the city without making written application for and receiving a parade permit and complying with this section.

(d) No parade permit shall be required for the following:

(i) The armed forces of the United States of America, the military forces of the state and the forces of the police and fire departments acting within the scope of their duties.

(ii) Funeral processions proceeding by vehicle by the most reasonable route from a funeral home, church or residence of a deceased to the place of service or place of interment.

(iii) Sidewalk processions which observe and comply with traffic regulations and traffic control devices, utilizing that portion of a sidewalk nearest the street, but at no time more than one-half (1/2) of the sidewalk.

(iv) Annual parades sponsored by the city including the Christmas Parade and the Veterans Day Parade

(e) Candy, gum, beads, paper or any other article(s) shall not be thrown from any type of vehicle or by any participant during a parade. This shall include, but not be limited to, persons on horseback. Entrants who wish to disburse candy shall provide volunteers to walk along the perimeter distributing their candies and keeping spectators at a safe distance.

The only exception to this shall be that the official "santa clause" as designated by the City of Lexington for the annual city christmas parade shall be permitted to disburse/throw candy.

(f) Parade participants, spectators, and the public are prohibited from disembarking from or attempting to board a moving vehicle during a parade.

(g) The maximum number of entries per business and/or organization shall be limited to twelve (12).

(h) All parade entrants shall be decorated as specified by the parade coordinator to correspond with the parade theme. Vehicles of

government entities and those of government officials shall not be subject to this requirement.

(3) Application requirements. (a) The application shall contain the following information and shall be signed by the applicant:

(i) The name, address and telephone number of the applicant and of any other persons, organizations, firms or corporations on whose behalf the application is made.

(ii) The name of the parade coordinator.

(iii) Date requested for the parade and the proposed schedule of start and stop times,

(iv) The specific route (include a map) to be traveled including city, county, highway numbers, and physical location, and the starting and termination points.

(v) A brief description of the proposed activities, including the proposed placement of event staff and equipment on the right-of-way.

(vi) An original certification of insurance.

(vii) Staging areas for the start of the parade and disassembly areas at the termination point must be designated and fully described. Applicant must sign a statement that all staging and disassembly areas on private or public property have been approved by the owner/management of the property. The name, address and phone numbers for the owner/manager authorizing the use of property must be included in the application, including without limitation public rights-of-way and property operated by the town, if applicable.

(viii) The estimated number of persons to participate in the parade. Marching units or organizations shall require an individual count for each member. The total number of people shall be included.

(ix) The estimated number, if any, of animals without riders, animals with riders, animal-drawn vehicles, floats, motor vehicles, motorized displays.

(x) A signed statement ensuring that each marching unit or organization will only be allowed to conduct a maximum of four (4) stationary performances at a specified and approved location during the parade route. The marching unit or organization shall then continuously march along all other portions of the parade route

(xi) A signed statement that sponsors will ensure that assembly and disassembly of the parade will be directed and orderly so as not to block or interfere with traffic flow.

(xii) A signed statement ensuring that the applicant will be responsible for the ground maintenance of the assembly and disassembly

areas that occur in public rights-of-way including with out limitation cleaning and removal of animal droppings.

(b) A signed statement ensuring that the applicant understands the following:

(i) Horse units. Horse units may be permitted under the following conditions:

(A) All horses must be under control at all times.

(B) Riders may not consume intoxicating beverages immediately before or during the parade.

(C) There must be an individual unit following horse formation to clean up the debris from the horses on the parade route.

(D) Each horse must be identified by a responsible person.

(ii) Motorized units. All motorized units shall not exceed ten (10) miles per hour while on the parade route. No motorized units shall be driven in a reckless manner. All units shall use only one lane of the street and shall not cross from lane to lane. The police chief may establish other conditions as deemed appropriate.

(iii) Intoxicating beverages. There shall be no open display or consumption of intoxicating beverages on or in floats or units. No person operating a motor vehicle within the parade shall consume intoxicating beverages during the parade or at any time two hours prior to the parade, or be under the influence of alcohol or a controlled substance at any time during the parade.

(iv) Obscene and vulgar displays. No floats or units shall include any vulgar or obscene act, contain vulgar, obscene, or offensive language, contain anything defamatory or otherwise offensive to the general members of the community. No parade participant shall use vulgar, obscene or derogatory language while on a float or unit.

(4) Issuance of parade permit. Upon receipt of the parade application, the city recorder shall normally furnish to the applicant, within ten (10) working days, excluding Saturdays, Sundays and legal holidays, appropriate approval or denial of the application. Approval or denial of the application may be delayed if the applicant fails to give complete information, if the proposed route requires staff research, or if other aspects of the application require staff review that exceeds the normal process.

(5) Denial of parade permit. The police chief, fire chief and mayor shall deny an application (permit) when:

(a) The applicant fails to provide complete information on the application required under this section.

(b) The movement of the parade will conflict in time and location with another parade for which a permit has previously been granted or will interfere with the orderly flow of vehicular or pedestrian traffic.

(c) The parade could damage roadways or other facilities of the city.

(d) The applicant refuses to sign a statement ensuring that each marching unit or organization will only be allowed to conduct a maximum of four (4) stationary performances at a specified and approved location during the parade route.

(e) The applicant refuses to sign a statement ensuring that appropriate property owner/managers have authorized their property for use as staging and disassembly areas.

(f) The applicant refuses to sign a statement ensuring that the parade assembly and disassembly will be directed and orderly so as not to block or interfere with traffic flow.

(g) If the application reveals that the parade staging, parade route and parade disassembly requested will interfere with the orderly flow of vehicular or pedestrian traffic, the police chief, fire chief and mayor shall have authority to establish a reasonable alternate route and to regulate the width and the duration of the parade.

(6) Revocation of permit. (a) The police chief or his designee[1] shall revoke a parade permit when the information contained in the application is found to be inaccurate in any material detail.

(b) The police chief or his designee may revoke the parade permit if the parade fails to begin within thirty (30) minutes of the appointed time of commencement.

(c) The police chief or his designee may revoke the parade permit if the applicant misrepresents the number of participants in the parade and/or does not provide a final parade participation count at least seven (7) days before the date of the parade.

(d) The police chief or his designee shall revoke a parade permit based on reasonable grounds to believe that the parade is being conducted in a manner constituting a danger to any person or property.

(e) The police chief or his designee shall revoke a parade permit for failure to comply with this section.

(7) Indemnification. An applicant and or the sponsors, and or any other individual or entity must execute a written indemnity agreement, in the form and substance required by the city, indemnifying and holding harmless, the city and its officers and employees and parties in interest with the city against all claims, damages, or causes of action arising from the parade

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[1]Designee shall be full time police officer with rank of lieutenant or above.

resulting in injury, damage or death to persons or property, whether public or private. The applicant shall take all reasonable measures necessary to protect the parade participants. Insurance shall be furnished prior to the parade in the form, substance, and limits required by the city. (Ord. of Dec. 13, 1927, as replaced by Ord. #200715, Nov. 2007)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section.

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (Ord. of Dec. 13, 1927)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required.
16-202. Applications.
16-203. Fee.
16-204. Manner of excavating--barricades and lights--temporary sidewalks.
16-205. Restoration of streets, etc.
16-206. Insurance.
16-207. Time limits.
16-208. Supervision.
16-209. Driveway curb cuts and connections to city streets.

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 recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (Ord. of Oct. 2, 1928, as amended by Ord. of Aug. 7, 1939)

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

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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).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be an amount determined by the public works department. Said fee shall be equal to the cost of repairing the street to its original condition. (Ord. of Oct. 2, 1928, as amended by Ord. of Aug. 7, 1939, modified)

16-204. 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. (Ord. of Oct. 2, 1928)

16-205. 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 except for the surfacing, which shall be done by the town, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel.

16-206. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in

accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate.

16-207. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder.

16-208. Supervision. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences.

16-209. Driveway curb cuts and connections to city streets. No one shall cut, build, or maintain a driveway across a curb or sidewalk or connect a driveway to a city street without first making application for such connection at city hall. The application shall be reviewed and final permission for connection granted by the public works director. Permission will not be granted when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (as replaced by Ord. #201808, Oct. 2018)

CHAPTER 3

STREETLIGHTS

SECTION

16-301. Purpose.
16-302. Location.
16-303. Exceptions.
16-304. Request.
16-305. New installations.

16-301. Purpose. To provide guidelines for the installation of streetlights for adequate illumination along the streets and highways of the City of Lexington in order to aid in the safe and orderly movement of traffic and pedestrians. Streetlights are installed primarily to light the streets and highways with any secondary benefits as to lighting of yards, porches, driveways, etc. being coincidental. (as added by Ord. #201213, Dec. 2012)

16-302. Location. Streetlights will be provided in residential and commercial areas according to the following:

(1) Streetlights paid for by the city shall be located within the corporate limits only.

(2) Streetlights shall be installed only if funds are available.

(3) Streetlights shall be placed no closer than two hundred feet (200') apart.

(4) Streetlights shall be used to light streets only, except such lights may be placed in publicly owned parking lots and around city owned buildings and facilities.

(5) Streetlights shall face the street on which they are located.

(6) Streetlights shall not be provided on privately owned streets or private property.

(7) Streetlights shall not be provided for cost prohibitive projects.

(8) Streetlights shall be provided only if it is determined they are necessary for the health, safety and welfare of the general public traveling on our streets.

(9) Streetlights shall be provided based on public need rather than private need. (as added by Ord. #201213, Dec. 2012)

16-303. Exceptions. The chief of police may request a streetlight not in conformance with § 16-302 above if such light is within a high crime area or high traffic hazard location. Such request must be made in accordance with the provisions of this chapter and approved by the public works director. (as added by Ord. #201213, Dec. 2012)

16-304. <u>Request</u>. Requests for streetlight installations shall be made at city hall and a request form shall be completed. Upon receipt of a completed request, the public works director shall review the request for compliance; acquire relative information on need of installation; consult with Lexington Electric System on service and installation requirements; and, obtain a cost estimate for the project. The final determination for approval or denial will be made by the public works director. (as added by Ord. #201213, Dec. 2012)

16-305. <u>New installations</u>. Installation of new streetlights will be made by Lexington Electric System or other provider as required and approved by the board of mayor and aldermen; and, shall only be undertaken upon receipt of a work request signed and certified by the city recorder as being approved and authorized by the public works director. (as added by Ord. #201213, Dec. 2012)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

1. REFUSE.
2. LANDFILL SALVAGE REGULATION.
3. LITTER.

CHAPTER 1

REFUSE

SECTION

17-101. Definitions.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbing containers.
17-106. Confiscation of unsatisfactory storage containers.
17-107. Collection.
17-108. Collection vehicles.
17-109. Disposal.
17-110. Dumping in streams, sewers, and drains prohibited.
17-111. Notice of violation to be given.
17-112. Open burning.

17-101. Definitions. The following are definitions of certain words used in this chapter:

(1) "Refuse." The term "refuse" as hereinafter referred to in this chapter shall include garbage, rubbish, ashes and all other putrescible and non-putrescible, combustible and non-combustible materials originating from the preparation, cooking and consumption of food, market refuse, waste from the handling and sale of produce and other similar unwanted materials, but shall not include sewage, body wastes or recognizable industrial by-products from all residences and establishments public and private.

(2) "Garbage." The term garbage shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products from all public and private residences and establishments.

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

(3) "Rubbish." The term "rubbish" shall include all non-putrescible waste materials except ashes from all public and private residences and business establishments, and shall expressly include bottles and cans of all types and varieties.

(4) "Ashes." The term "ashes" shall include the waste products from coal, wood and other fuels used for cooking and heating from all public and private residences and establishments.

(5) "Collector." The term "collector" shall mean any person, firm or corporation that collects, transports or disposes of any refuse within the corporate limits of Lexington.

(6) "Health officer." The term "health officer" shall mean the building inspector of the City of Lexington or his authorized representative. (Ord. of July 5, 1955, modified)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (Ord. of July 5, 1955)

17-103. Storage. The storage, collection and disposal of refuse shall be managed so as to not create health hazard, rodent harborage, insect breeding areas, accident hazards, or air pollution. All refuse shall be stored in fly tight, water tight, animal proof containers. Such containers shall be constructed of a material that is strong, durable, and not readily corrodible.

Automated pick up storage containers shall initially be provided by the City of Lexington.

Each rollout container is the property of the city and shall remain at the service location address to which it has been assigned by the city.

Manual pick up storage containers are the responsibility of the customer. Containers may be wheeled with a capacity not to exceed sixty-five (65) gallons and not less than ten (10) gallons. Containers with no wheels may have a capacity not to exceed thirty (30) gallons and not less than ten (10) gallons. Containers shall be equipped with handles to facilitate emptying and shall be equipped with tight fitting lids or covers, constructed of the same material and of such design to prevent the container from collecting water during rains.

Bin storage areas shall house individual containers that may be wheeled with a capacity not to exceed sixty-five (65) gallons or non-wheeled containers not to exceed thirty (30) gallons. All refuse disposed within bin storage containers shall be secured in closed plastic bags.

All containers shall be maintained by the customer in a clean and sanitary manner and shall be thoroughly cleaned by washing or other methods as often as necessary to prevent the breeding of flies and the occurrence of offensive odors. (Ord. of July 11, 1975, modified, as replaced by Ord. #200807, Nov. 2008, and Ord. #201409, Nov. 2014)

17-104. Location of containers. Refuse storage containers shall be stored away from the street along the side or rear of property so best not visible by passersby. Containers shall be put in place for pick up by 7:00 A.M. on the day of collection but no earlier than 5:00 P.M. on the day before.

Automated pickup storage containers shall be placed in the location designated by the City of Lexington.

Manual pickup storage containers shall be placed in a convenient accessible location. Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb.

As soon as practical after such containers have been emptied but no later than 7:00 P.M. on the day of collection, they shall be removed by the owner/customer to their storage location at the side or the rear of premises for storage until the next scheduled time for collection. (as replaced by Ord. #201409, Nov. 2014)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose.

17-106. Confiscation of unsatisfactory storage containers. The official refuse collecting agency of the city is herein authorized to confiscate or to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when at the discretion of the health authority such containers are not suitable for the healthful and sanitary storage of refuse substances. Such unsatisfactory containers shall be removed and disposed of only after the owner or owners of such containers have been duly notified of such impending action. (Ord. of July 11, 1975)

17-107. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the governing body shall designate. Collections shall be made regularly in accordance with an announced schedule. (Ord. of July 5, 1955)

17-108. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (Ord. of July 5, 1955)

17-109. <u>Disposal</u>. It shall be unlawful for any person to dump or place on any premises, land or waterway any dead animals or waste, vegetable or animal matter of any kind. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (Ord. of July 5, 1955, as replaced by Ord. #201409, Nov. 2014)

17-110. <u>Dumping in streams, sewers, and drains prohibited.</u> It shall be unlawful for any person, firm or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the City of Lexington. This does not preclude properly prepared putrescible wastes from domestic "garbage grinders" discharging to sanitary sewers. (Ord. of July 11, 1975)

17-111. <u>Notice of violation to be given</u>. It shall be the duty of the health officer or his authorized representative to issue orders requiring the proper handling of garbage and refuse on private and public premises to owners, occupants, tenants or lessees of such properties where violations of this chapter are known to exist, and providing that such violations be corrected within the time specified by the health officer. (Ord. of July 5, 1955)

17-112. <u>Open burning</u>. It shall be unlawful for any person, firm, or corporation to burn or attempt to burn refuse on private or public property within the corporate limits of the City of Lexington without first securing the approval of the appropriate health department or city department having jurisdiction. (Ord. of July 11, 1975)

CHAPTER 2

LANDFILL SALVAGE REGULATION

SECTION

17-201. Consent required.
17-202. Violation and penalty.

17-201. Consent required. No salvage operation shall be permitted in Lexington landfill without the express written consent of the mayor and board of alderman of Lexington, Tennessee and upon the approval of the department of health for the State of Tennessee. (Ord. of Nov. 8, 1983)

17-202. Violation and penalty. Any salvage operation or salvaging from the Lexington landfill without the approval set out above shall be and is declared unlawful and a misdemeanor offense punishable by a fine of not more than $50.00 and/or confinement to the Henderson County Jail for a period not to exceed 30 days. (Ord. of Nov. 8, 1983)

CHAPTER 3

LITTER

SECTION

17-301. Definitions.
17-302. Depositing in public places prohibited; exceptions.
17-303. Throwing from vehicles prohibited.

17-301. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(1) "Authorized private receptacle". A litter storage and collection receptacle owned and maintained by a private person and specifically designed and utilized for the disposition and storage of litter.

(2) "Litter". Such word is a comprehensive term inclusive of garbage, refuse, and rubbish as those terms are defined in this section.

(3) "Public place". Such term includes all streets, sidewalks, alleys or other thoroughfares or rights of way and all public parks, squares, grounds and buildings.

(4) "Public receptacle". A container located in a public place designed and utilized for the disposition, collection and storage of litter.

(5) "Refuse". All putrescible and non-putrescible solid waste (except body waste), including, but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and market and industrial wastes.

(6) "Rubbish". Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, including but not limited to paper, wrappings, cardboard, metal containers, yard clippings, leaves, wood, glass, crockery, and scrap metal. (Ord. of July 11, 1975)

17-302. Depositing in public places prohibited; exceptions. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City of lexington, except in public receptacles, in authorized private receptacles for collection or in the Henderson-Lexington County Landfill. (Ord. of July 11, 1975)

17-303. Throwing from vehicles prohibited. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City of Lexington. Included within the prohibition of this section is the throwing of litter onto private property from a public thoroughfare. (Ord. of July 11, 1975)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

1. SEWER USE ORDINANCE.
2. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
3. ANIMAL AND VEGETABLE FATS, OILS, AND GREASE, ETC.
4. ADJUSTMENT POLICY.

CHAPTER 1

SEWER USE ORDINANCE

SECTION

18-101. Purpose and policy.
18-102. Definitions.
18-103. Use of public sewers.
18-104. Building sewers, connections, and permits.
18-105. Private domestic wastewater disposal.
18-106. Prohibitions and limitations.
18-107. Control of prohibited pollutants.
18-108. Wastewater discharge permits.
18-109. Inspections, monitoring, and entry.
18-110. Enforcement.
18-111. Wastewater volume determination.
18-112. Wastewater charges and fees.
18-113. Administration.
18-114. Validity.

18-101. Purpose and policy. The purpose of this ordinance is to set uniform requirements for users of the Lexington Water Systems' (the system) wastewater collection system and treatment works to enable the system to comply with the provisions of the Clean Water Act and other applicable federal and state laws and regulations; and to provide for the public health and welfare by regulating the quality of wastewater discharge into the Lexington Water Systems' wastewater collection system and treatment works. This ordinance establishes conditions for connection to the sanitary sewer system. Certain acts which may be detrimental to the sewer system are prohibited. This ordinance provides a means for determining wastewater volumes, constituents and

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.

characteristics, the setting of charges and fees, and the issuance of permits to specific users. This ordinance also establishes effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the Publicly Owned Treatment Works (POTW) which will interfere with the operation of the POTW, may cause environmental damages, interfere with the use or disposal of sewage sludge; and to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or the atmosphere, or otherwise be incompatible with the treatment works; and to improve the opportunities to recycle and reclaim the wastewater and/or sludge resulting from such treatment. This ordinance provides measures for the enforcement of its provisions and abatement of violations thereof.

This ordinance shall apply to the Lexington Water Systems and to persons outside the city limits who are, by contract or agreement with the Lexington Water Systems, users of the Lexington POTW. Except as otherwise provided herein, the Water Systems Manager of the Lexington POTW shall administer, implement, and enforce the provisions of this ordinance. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-102. Definitions. (1) For the purposes of this ordinance, the following phrases and words shall have the meaning defined below:

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(b) "Approved pretreatment program." A program administered by a POTW that meets the criteria established in chapter 40 of the Code of Federal Regulations (40 C.F.R. 403.8 and 403.9), and which has been approved by the regional administrator or state director in accordance with 40 C.F.R. 403.11.

(c) "Best management practices." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 1200-4-14-.05(1)(a) and (2). 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.

(d) "Board." The Board of the Lexington Water Systems.

(e) "Building sewer." A sewer conveying wastewater from the premises of a user to a community sanitary sewer.

(f) "Bypass." The intentional diversion of waste streams from any portion of a treatment facility.

(g) "Categorical standards." Any regulation containing pollutant discharge limits promulgated by 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 C.F.R. chapter I, subchapter N, parts 405-471.

(h) "Combined sewer." A sewer which has been designed to carry both sanitary sewage and storm water runoff.

(i) "Composite sample." Sample consisting of several sample portions collected during a specified period (usually twenty-four (24) hours) and combined to form a representative sample. Composite samples can be collected on a flow proportional or timed basis, depending on the nature of the discharge.

(j) "Conventional pollutant." Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), pH, fecal coliform, and oil and grease.

(k) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(l) "Discharge monitoring report." A report submitted by an industrial user to the water systems manager containing information regarding the nature and concentration of pollutants and flow characteristics of a discharge by the user to the POTW.

(m) "Environmental Protection Agency" or "EPA." An agency of the United States or its duly authorized representative.

(n) "Grab sample." An individual sample collected over a period of time not exceeding fifteen (15) minutes.

(o) "Holding tank waste." Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks. This specifically includes wastewater from industrial users conveyed to the POTW by any means other than by a standard sewer tie-on.

(p) "Indirect discharge." The discharge or the introduction of pollutants from any source regulated under section 307(b) or (c) of the Act into the POTW for treatment before direct discharge to state waters.

(q) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act. For the purposes of this ordinance, an industrial user is a source of non-domestic wastes from industrial processes.

(r) "Infiltration." Water other than wastewater that enters a sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes.

(s) "Inflow." Water other than wastewater that enters a sewer system from sources such as roof leaders, cellar drains, yard drains, area drains, fountain drains, drains from springs and swamp areas, manhole covers, cross connections between storm and sanitary sewers, catch basins, storm water, surface runoff, street wash water, and drainage.

(t) "Interference." A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or the collection system.

(u) "Mayor." The Mayor of the City of Lexington, Tennessee.

(v) "Mass discharge rate." The weight of material discharged to community sewer during a given time interval, normally given in pounds per day.

(w) "Maximum daily concentration." A limitation on the average concentration, in milligrams per liter, of the discharge during any calendar day. When a proportional-to-flow composite sampling device is used, the daily concentration is the concentration of that twenty-four (24) hour composite; when other sampling means are used, the daily concentration is the arithmetic mean of the concentration of equal volume samples collected during any calendar day or sampling period.

(x) "Medical wastes." Wastes capable of producing an infectious disease because they contain pathogens of sufficient virulence and quantity that exposure to the waste by a s eptible host could result in an infectious disease.

(y) "Monthly average concentration." The arithmetic mean of all the composite or grab samples collected in a one (1) calendar month period. When only one (1) sample is obtained in a monthly period, the results of that analysis shall be compared with the monthly average concentration limit to determine compliance.

(z) "National pretreatment standard." Any regulations containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act which applies to industrial users. These terms also include prohibited discharges promulgated in 40 C.F.R. 403.5 and local limits adopted as part of the system's pretreatment program.

(aa) "New source." Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that; the building, structure, facility or installation is constructed at a site at which no other source is located; or the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or 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.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of parts (1)(b) or (c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source as defined under this paragraph has commenced if the owner or operator has begun, or caused to begin as part of a continuous onsite construction program, any placement, assembly, or installation of facilities or equipment; or significant site preparation work including cleaning, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

New source has 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 paragraph.

(bb) "National Pollutant Discharge Elimination System (NPDES)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Act.

(cc) "Normal wastewater." Effluent, which contains constituents and characteristics similar to effluent from a domestic premises and specifically for the purpose of this ordinance, does not contain these constituents in excess of the following concentrations:

BOD_5	300 mg/l
COD	600 mg/l
TKN	60 mg/l
NH_3-N	30 mg/l
TSS	300 mg/l
Oil and grease	100 mg/l

(dd) "Pass-through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation.)

(ee) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate,

government entity or any other legal entity, or their legal representatives, agents, or assigns.

(ff) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(gg) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process change or by other means, except as prohibited by 40 C.F.R. 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. 403.6(e).

(hh) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(ii) "Publicly owned treatment works." A treatment works as defined by section 212 of the Act, which is owned in this instance by the Lexington Water Systems. This definition includes any sewers that convey wastewater to such a treatment works and any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial waste, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment.

(jj) "Shall" is mandatory; may is permissive.

(kk) "Significant industrial user." (i) All discharges subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N.

(ii) All non-categorical dischargers that contribute a process waste stream which makes up five percent (5%) or more of the average dry-weather capacity of the wastewater treatment plant (WWTP) or more than an average of twenty-five thousand (25,000) gallons per day of process wastewater to the WWTP.

(iii) All non-categorical dischargers that, in the opinion of the water system manager, have a reasonable potential to adversely affect the POTW operations. This shall include, but shall not be limited to, all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities.

(iv) All non-categorical discharges that contain more than one hundred (100) pounds per day of combined BOD_5 and TSS load above that level found in normal wastewater or that contain more than one thousand (1,000) pounds in a month of combined BOD_5 and TSS load above that level found in normal wastewater.

(ll) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

(mm) "Standard industrial classification." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(nn) "Toxic pollutants." Any pollutant or combination of pollutants listed as toxic in 40 C.F.R., part 401 as promulgated by the administrator of the EPA under the provisions of the Act.

(oo) "User." Any person, firm, corporation, or government entity that discharges, causes, or permits the discharge of wastewater into a community sewer system.

(pp) "Wastewater." The liquid and water borne industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(qq) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological, and radiological parameters, including toxicity, volume, and flow rate and such other parameters that serve to classify, define, or measure the contents, quality, quantity, and strength of wastewater.

(rr) "Water systems board." Composed of duly elected members of the board of aldermen that are appointed by the mayor and which functions as a governing body over Lexington Water Systems.

(ss) "Water systems manager." The person designated by the mayor to supervise the operation of the Lexington Water Systems and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.

(tt) "Waters of the State of Tennessee." Any water, surface or underground, within the boundaries of the state.

(2) The following abbreviations shall have the following meanings:

(a)	BAT	-	Best Available Technology.
(b)	BMP	-	Best Management Practice.
(c)	BPT	-	Best Practical Technology.
(d)	BOD_5	-	Biochemical Oxygen Demand (5-day).
(e)	C.F.R.	-	Code of Federal Regulations.
(f)	COD	-	Chemical Oxygen Demand.
(g)	CWA	-	Clean Water Act.

(h)	EPA	-	Environmental Protection Agency.
(i)	GMP	-	Good Management Practices.
(j)	MBAS	-	Methylene Blue Activated Substances.
(k)	mg/l	-	Milligrams per liter.
(l)	NPDES	-	National Pollutant Discharge Elimination System.
(m)	POTW	-	Publicly Owned Treatment Works.
(n)	RCRA	-	Resource Conservation and Recovery Act.
(o)	SIC	-	Standard Industrial Classification.
(p)	SWDA	-	Solid Waste Disposal Act.
(q)	TDEC	-	Tennessee Department of Environment and Conservation.
(r)	TSS	-	Total Suspended Solids.
(s)	U.S.C.	-	United States Code.
(t)	WWTP	-	Wastewater Treatment Plant. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-103. Use of public sewers. (1) Connection with sanitary sewer required. (a) Sewer connection required. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is within five hundred feet (500') of the building drain of the parcel shall be considered as being served by the system's sanitary sewer system.

All new buildings hereafter constructed on property which is served by the POTW shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the POTW shall cease to use any other method of the disposal of sewage except as provided for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank. Septic tanks shall not be used where sewers are available. The water system manager shall make any decision as to the availability of sewers. Notwithstanding the above exceptions, all premises served by the POTW are subject to sewer use charges as described in § 18-112 of this chapter.

(b) Unconnected sewer service lines prohibited. Except for discharge to a properly functioning septic tank system or discharges permitted by an NPDES permit issued by the TDEC, the discharge of sewage into places other than the POTW is prohibited.

(c) Insufficient capacity, connection moratorium. In those parts of the sewer system where no additional capacity exists and a sewer moratorium has been established pursuant to orders of the TDEC, no new

or additional sewer connections shall be permitted. Permits issued prior to the date of the moratorium may be completed. No new plumbing permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue to be in effect until capacity restriction has been corrected.

(d) Notwithstanding any other provisions contained in the municipal code and subdivision regulations, a property owner of a lot in an existing platted subdivision which was platted and recorded prior to July 1, 2015 desiring to construct a building pursuant to this ordinance which is not currently served by city sewer shall make a request for sewer service to the water system manager. In the event the property owner declines to utilize any sewer that is available, the property owner at their own expense may then apply for approval of a septic tank permit through TDEC in lieu of sewer. There shall be no charges paid to POTW. A copy of a TDEC permit shall be delivered to the building inspector in order to obtain a building permit for the structure on the lots which apply under this subsection. Installation and future maintenance of septic tank systems installed pursuant to the ordinance shall be at the expense of the property owner. Neither POTW nor the City of Lexington shall have any liability for failure of a septic system installed pursuant to this ordinance. Should sewer service become available to the property owner in the future, connection to the sewer system shall be required within sixty (60) days. This ordinance is an exception to the distance provisions of Lexington City Municipal Code §18-103 Use of Public Sewers (1)(a) and is also an exception to the Municipal-Regional Subdivision Regulations of Lexington, Tennessee requiring sewer connection of property inside the city limits or within one thousand feet (1000') of existing adequate public facilities. As stated above, this exception only applies to undeveloped property located within an existing platted subdivision, platted and recorded prior to July 1, 2015.

All future subdivisions shall require a bond in the event a developer should default on construction of infrastructure as required under the Municipal Regional Subdivision Regulations of Lexington as well as the Lexington City Municipal Code. Said bonds shall be held by the office of the city recorder.

(2) <u>Adequate and minimum fixtures</u>. (a) Minimum number of fixtures. A dwelling shall have at least one (1) commode, one (1) bathtub or shower, one (1) lavatory, one (1) kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation, and personal hygiene. All other buildings, structures or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one (1) commode and one (1) hand washing lavatory.

(b) Adequate water for disposal of waste. It shall be unlawful for any person in possession of premises into which a pipe or other connection with the sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow sufficient quantity of water to be so applied as to properly carry off all waste matter and keep the same unobstructed.

(3) Right to enter and inspect connection. The water system manager, building inspector, or their representative shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the sanitary sewer are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause of reasonable suspicion that there may be inadequate facilities, the facilities present may not be properly functioning, there is an improper discharge, or upon a periodic systematic inspection of a particular drainage basin or other large segment of the system through those facilities, at any time of the day between the hours of 7:00 A.M. and 6:00 P.M. or at any other time in the event of an emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice and an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to disrupt the treatment process, or shall damage the POTW's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.

(4) Demolished buildings. When a building is demolished, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his representative shall notify the water system manager of such a plug and allow same to be inspected prior to covering any work. If such a line is to be reused, it must first undergo inspection by the water system manager and be in conformity with the existing standards.

(5) Temporary discharges. No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through an approved building sewer unless they have been issued a temporary permit by the water system manager. A temporary permit may be issued at the discretion of the water system manager to provide for discharge from portable facilities for festivals or public shows or for other reasonable purposes. The water system manager shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to ensure compliance with provisions of this ordinance. The user shall be required to pay reasonable charges and fees for the permit and service in an amount not less than the charges and fees for normal discharges. Any discharge other than through an approved building sewer or in accordance with a permit issued by the water system manager shall be unlawful.

(6) Vehicle wash racks. All gasoline stations, garages, self-service vehicle washers, and other public wash racks where vehicles are washed shall install catch basins in conformity with the plumbing code in accordance with a permit obtained from the building official. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system. If such users are industrial users as defined in § 18-108 of this chapter, a permit as specified therein will be required.

(7) Grease, grit, oil, and lint traps. Restaurants, laundries, wash racks, service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the POTW sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the water system manager and constructed in accordance with applicable building codes.

(8) Multi-use private sewer systems. Excluding those industrial waste facilities with a permit issued pursuant to § 18-108, the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the POTW's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter including liability for the damage or injury caused to the POTW as a result of any discharge through the private system. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011, and amended by Ord. #201505, Sept. 2015)

18-104. Building sewers, connections, and permits.

(1) Installation, maintenance, repair of sewer service lines.

(a) Definition. A standard sanitary sewer service line is a minimum four inch (4") pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main trunk.

(b) Installation of sewer service lines. Four inch (4") building sewers shall be laid on a grade greater than one-eighth inch (1/8") per foot (at least one percent (1%)). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second. The slope and alignment of all building sewers shall be neat and regular.

Building sewers shall be constructed only of one (1) of the following approved materials:

(i) Cast iron soil pipe using rubber compression joints of approved type;

(ii) Polyvinyl chloride pipe with rubber compression joints;

(iii) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(iv) Similar materials of equal or superior quality following water system manager approval.

Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a wye or service line stubbed out or, in the absence of any other provision, by means of a saddle of a type approved by the Lexington Water System, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of one percent (1%) or more. In cases where basement or floor levels are lower than the ground levels at the point of connection to the sewer, adequate precautions through the installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the POTW sewer.

(c) Cleanouts. A cleanout shall be located five feet (5') outside of the building, one (1) as it taps on to the utility laterally and one (1) at each change of direction of the building sewer greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall extend to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a four inch (4") pipe.

(d) Fees. All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the Lexington Water System from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The system reserves the right to impose a sewer service line charge for every sanitary sewer service line installed where a lateral sewer connection has been provided for use by the applicant. The rate of charge will be established by the water system manager.

(e) Title and maintenance. When a property owner ties into a sanitary sewer service line and pays the appropriate sewer service line fees, the Lexington Water System, by appropriate instrument, shall convey and release to the property owner all its right, title, and interest in the sanitary sewer service line so installed by the system. Thereafter, all repairs and maintenance of the sanitary sewer service line shall be the responsibility of the property owner or user of the sewer; provided, for all sanitary sewer service lines hereafter installed by developers in subdivisions and not by the utility, for which no sewer service line charge is charged to the property owner, all repairs and maintenance of such sanitary sewer service lines shall be the responsibility of either the property owner, user of the sewer, or the developer, as the owner, user, and developer shall agree by separate contract between themselves.

(f) Location of sewer stub-out. The plumbing contractor is responsible for locating the sewer stub- out. POTW personnel will provide whatever information is available for this purpose. If no "Y" or tee exists within three feet (3') of either side of the location shown on the sewer plats, then a tap will be provided by the POTW when the sewer main is exposed. If a manhole needed for locating a service line has been lost, then the POTW shall be responsible for locating the manhole.

(g) Taps on utility sewers. All taps made directly into the system's sewer lines shall be made by sewer maintenance personnel. The plumbing contractor shall excavate to the system's sewer and expose the pipe in preparation for the tap. Only one (1) service line shall be allowed to be installed in a trench. New taps shall be made using a "Y"-type connection.

(h) Manhole requirements. A new manhole will be required whenever a sewer service line larger than six inches (6") is needed to tie into the system's sewer. The plumbing contractor shall excavate to the sewer and sufficiently expose the pipe for installation of the manhole. Sewer maintenance personnel shall install the manhole. The cost of the manhole, including labor and materials, shall be charged to the owner after construction is completed.

(i) Maintenance of service lines. All repairs and maintenance of the sewer service line to include correction of excessive inflow or infiltration shall be the responsibility of the property owner or user of the sewer. The Lexington Water System shall be responsible for the maintenance of collector lines only up to the point where the owner's service line connects to the system's lines.

(j) Methods of installation. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction or repair of a building sewer which have not been described in this section shall conform to the requirements of the building or plumbing code or other applicable rules and regulations

of the Lexington Water System or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federation manuals. Any deviation from the prescribed procedures must be approved by the water system manager.

(k) Public safety. All excavation for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from potential hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner acceptable to the Lexington Water System.

(l) Prohibitions. No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains, sump pumps, or other sources of surface run-off or groundwater to a building sewer or drain which in turn is connected either directly or indirectly to the sanitary sewer. Further, such existing connections are declared to be illegal, and shall be disconnected at the expense of the homeowner.

(2) Service line to enter sewer at junction; exceptions. No service lines shall enter the sanitary sewer at any point except where a junction has been made unless special permission has been given by the water system manager. In any case where such permission has been given, the work shall be done under the inspection of the water system manager or his representative and at the risk and expense of the party making the connection.

(3) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the water system manager for written authorization to discharge to the sanitary sewer. Applications shall be required from all new dischargers as well as for existing dischargers desiring additional service. Connection to the sanitary sewer shall not be made until the application is received and approved by the water system manager, the building sewer is installed in accordance with § 18-104 of this chapter, and an inspection has been performed by the water system manager or his representative.

Connections made without an approved application may be severed by order of the water system manager. Such unapproved connection may be allowed to remain active if inspected and accepted; however, the owner shall be required to pay an alternative fee in lieu of the permit application fee in an amount double the current fee.

The receipt by the Lexington Water System of a prospective customer's application for service shall in no way obligate the Lexington Water System to render the service. If the service applied for cannot be supplied in accordance with this ordinance and the system's rules and regulations, the connection charge will be refunded in full, and there shall be no liability of the Lexington Water System to the applicant for such service, except that conditional waivers may be granted for additional services by the water system manager for interim periods if compliance may be assured within a reasonable period of time.

(4) Acceptance of work. All sewer construction involving interceptor lines, pump stations, metering stations, and appurtenances which shall become part of the system's sewer system shall not be constructed until the plans are approved and the construction inspected and approved by the water system manager. Any construction work where sewers are opened, uncovered, or undercut must also have the prior approval of the water system manager. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-105. Private domestic wastewater disposal. (1) Availability. Where a public sanitary sewer is not available under the provisions of § 18-103(1) of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of this section.

Where a public sewer shall become available, the building sewer shall be connected to said sewer within sixty (60) days after official notification by the water system manager or his representative to do so.

(2) Requirements. (a) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the water system manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing sub-surface oil absorption facilities where the area of the lot is less than that specified by the Lexington Water System and the Henderson County Health Department.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the Lexington Water System and the Henderson County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Lexington Water System and the Henderson County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Lexington Water System and Henderson County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Lexington Water System and Henderson County Health Department when the work is ready for final inspection and before underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Lexington Water System and Henderson County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all the recommendations of the TDEC, the Henderson County Health Department, and the Lexington Water

System. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the Lexington Water System.

(f) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Lexington Water System and/or the Henderson County Health Department. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-106. Prohibitions and limitations. (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be legally discharged to the POTW. Pretreatment of some wastewater discharges will be required to achieve the goals established by this section and the Clean Water Act. The specific limitations set forth in this section are subject to change as necessary to enable the Lexington Water System to provide efficient wastewater treatment, to protect the public health and environment, and to enable the Lexington Water System to meet requirements contained in its NPDES permit. The water system manager shall review said limitations from time to time to ensure that they are sufficient to protect the health and safety of POTW personnel and the operation of the treatment works to enable the facility to comply with its NPDES permit, provide for a cost effective means of operating the treatment works, and protect the public health and environment. The water system manager shall recommend changes or modifications as necessary.

(2) Prohibited pollutants. No person shall introduce into the POTW any pollutant(s) which cause pass-through or interference. Additionally, the following specific prohibitions apply:

(a) Pollutants which create a fire or explosion hazard in the POTW including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Centigrade) using test methods specified in 40 C.F.R. 261.21, or pollutants which cause an exceedance of ten percent (10%) of the Lower Explosive Limit (LEL) at any point within the POTW.

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 6.0 or greater than 10.0.

(c) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.

(d) Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge of such volume or strength (slug) so as to cause interference in the POTW or individual unit operations or cause adverse effects on its workers or the environment.

(e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds one hundred four (104) degrees Fahrenheit (forty (40) degrees Centigrade).

Unless a higher discharge temperature is specified in the user's wastewater discharge permit, no user shall discharge into a sewer line or other appurtenances of the POTW wastewater with a temperature exceeding one hundred fifty (150) degrees Fahrenheit (sixty-five and five-tenths (65.5) degrees Centigrade).

(f) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(g) Any trucked or hauled pollutants, except at discharge points specified by the POTW.

(h) Petroleum oil, non-biogradable cutting oil, or products of mineral oil origin in amounts that cause interference or pass-through.

(i) Any pollutant which causes a discoloration of the WWTP effluent resulting in a degradation of receiving water quality and/or NPDES permit violation.

(3) Affirmative defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions that no person shall introduce into the POTW any pollutant(s) which cause pass-through or interference and specific provisions established in § 18-106(2)(c), (d), (e), (f), and (h) of this chapter where the user can demonstrate one of the following:

(a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference.

(b) A local limit designed to prevent pass-through and/or interferences, as the case may be, was developed pursuant to §§ 18-106(10) and (11) of this chapter for each pollutant in the user's discharge that caused pass-through or interference and the user was in compliance with each such local limit directly prior to and during the pass-through or interference.

(c) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass-through or interference and the user's discharge directly prior to and during the pass-through or interference did not change substantially in nature of constituents from the user's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(4) Wastewater constituent evaluation. The wastewater of every industrial user shall be evaluated using the following criteria:

(a) Wastewater containing any element or compound which is known to be an environmental hazard and which is not adequately removed by the treatment works.

(b) Wastewater causing a pass-through, discoloration, foam, floating oil and grease, or any other condition in the quality of the treatment works effluent such that receiving water quality requirements established by law cannot be met or the Lexington Water System NPDES permit requirements are violated.

(c) Wastewater causing conditions at or near the Lexington Water System treatment works which violate any statute, rule, or regulation of any public agency of Tennessee or the United States.

(d) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance.

(e) Wastewater causing interference with the effluent or any other product of the treatment process, residues, sludges, or scums causing them to be unsuitable for reclamation, reuse, causing interference with the reclamation process, or causing them to be unsuitable for disposal.

(f) Wastewater discharged at a point in the collection system that is upstream of any overflow, bypass, or combined sewer overflow and which thereby cause special environmental problems or specific discharge limitations.

(g) Wastewater having constituents and concentrations in excess of those listed in § 18-106(10) or cause an exceedance of the limits in § 18-106(11).

(h) The capacity of existing sewer lines to carry the anticipated wastewater flow, particularly with respect to any problems, overflows, or overloads caused by heavy rain infiltration.

(i) The toxicity of each wastewater shall be evaluated by an appropriate biomonitoring technique to determine if a specific discharge may significantly affect the overall toxic level of the POTW influent.

The water system manager shall establish reasonable limitations, prohibitions, or monitoring requirements in addition to the limits established pursuant to § 18-106(5) and (10) of this chapter in the wastewater discharge permit of any industrial user that discharges wastewater violating any of the above criteria or that has processes that generate wastewater that could violate any of the above criteria prior to pretreatment as shall be reasonably necessary to achieve the purpose and policy of this section.

(5) National pretreatment standards. Certain industrial users are now or hereafter shall become subject to national pretreatment standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to such a standard shall comply with all requirements and with

any additional or more stringent limitations contained in this ordinance. Compliance with current or newly promulgated national pretreatment standards for existing sources shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified. Compliance for new sources shall be required upon promulgation of the standard. New sources shall have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before commending discharge. New sources must meet applicable pretreatment standard within ninety (90) days of commencement of discharge.

(6) Dilution. Except where expressly authorized by an applicable national pretreatment standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(7) Limitations on radioactive waste. No person shall discharge or permit to be discharged any radioactive waste into a community sewer, except as follows:

(a) When the person is authorized to use radioactive materials by the TDEC or the Nuclear Regulatory Commission (NRC).

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the agencies having jurisdiction.

(c) When a copy of permits received from said regulatory agencies has been filed with the water system manager.

(8) Septic tank hauling, pumping, and discharge. No person owning vacuum or cesspool pump trucks or other liquid waste transport trucks shall discharge sewage directly or indirectly into the POTW, unless that person first receives from the water system manager a septic tank discharge permit for each vehicle used in this manner. All applicants for a septic tank discharge permit shall complete the forms required by the water system manager, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the water system manager.

(a) The owner of such vehicles shall affix and display the permit number in four inch (4") block figures on the side of each vehicle used for such purposes.

(b) The permit shall be valid for a period of one (1) year from date of issuance, provided that the permit shall be subject to suspension or revocation by the water system manager for violation of any of the provisions of this ordinance or other applicable laws or regulations. A revocation or suspension of the permit shall be for a period not to exceed five (5) years. Such revocation for suspension shall bind the permittee, any member of the immediate family of the permittee, or any person who has purchased the business or a substantial amount of the assets of the permittee. Users found operating in violation of a permit issued under

this section and whose permit is therefore revoked by the water system manager shall be notified of the violation by certified mail or by notice personally delivered to the user.

(c) Septic tank discharge permits are not automatically renewed. Application for renewal must be made to the water system manager.

(d) Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. All other hauled wastes shall be governed by § 18-106(9). Any user transporting, collecting, or discharging non-domestic industrial process wastewaters or a mixture of such wastewaters with domestic wastewaters shall obtain a holding tank discharge permit in accordance with § 18-106(9).

(e) The water system manager shall designate the locations and times where such trucks may be discharged and may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste.

(f) The water system manager shall have authority to investigate the source of any hauled waste and to require testing the waste at the expense of the discharger prior to discharge.

(9) Other holding tank wastes. No user shall discharge any other holding tank wastes, including hauled industrial waste, into the POTW unless he has been issued a holding tank discharge permit by the water system manager. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. All applicants for a holding tank discharge permit shall complete forms required by the water system manager, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the water system manager. All such dischargers and transporters must show that they have complied with federal manifests and other regulations of the RCRA. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of discharge, the source and character of the waste, and shall limit the wastewater constituents of the discharge. The user shall pay any applicable charges or fees and shall comply with the conditions of the permit.

(10) Restrictions on wastewater strength. (a) No person or user shall discharge wastewater which exceeds the standards set forth in the users permit. The industrial user permit limits are calculated based upon state issued pass-through limits, potential interference with WWTP operation, and potential impact on accumulated pollutants in the waste sludge. Individual permit limits may differ based upon the pollutants of concern for each industrial user.

TABLE A – USER DISCHARGE RESTRICTIONS

Parameter	Daily Average Concentration (mg/l)	Maximum Grab Sample Concentration (mg/l)
Cadmium (Cd)	0.016	0.024
Chromium (Cr), VI	0.670	0.780
Chromium (Cr), III	Report	
Copper (Cu)	1.000	1.500
Lead (Pb)	0.1600	0.2400
Mercury (Hg)	0.0020	0.0030
Nickel (Ni)	0.590	0.890
Silver (Ag)	0.011*	0.011
Zinc (Zn)	5.440	8.160
Benzene (i)	0.069	0.104
Carbon Tetrachloride	0.280	0.420
Chloroform	0.820	1.230
Cyanide (CN), Total	0.132	0.198
Ethylbenzene	0.142	0.213
Methylene Chloride	0.350	0.525
Naphthalene	0.045	0.068
Phenols (Total)	0.556	0.834
Phthalates (Total)**	3.380	5.070
Tetrachloroethylene	0.500	0.800
Toluene	1.380	1.900
1,2, Trans Dichloroethylene	0.026	0.039
1,1,1 Trichloroethane	1.100	1.650
Trichloroethylene	3.366	0.549

*=Daily maximum average.

**The sum of bis(2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

(b) For compatible pollutants, discharge of concentrations greater than normal domestic wastewater as defined below will require an industrial user permit and may be subject to the surcharge fees as described under § 18-112 of this chapter.

Normal Domestic Wastewater

BOD_5	300 mg/l
COD	600 mg/l
Suspended solids	300 mg/l
Ammonia nitrogen	30 mg/l
Oil and grease	100 mg/l

The IU permit for such producer of compatible pollutants will contain limitations of concentrations and/or quantities (pounds per day) of pollutants such that the organic capacities of the Lexington Wastewater Treatment Plant are not exceeded. Such limitations shall be calculated for each such industry and may vary based upon the flow and strength of the IU wastewater, and on the available capacity of the Lexington Wastewater Treatment Plant.

(11) Criteria to protect the treatment plant influent. The POTW shall monitor the treatment plant influent for each pollutant in the following table. Industrial users shall be subject to reporting and monitoring requirements as set forth in this ordinance. In the event that the influent at the POTW reaches or exceeds the levels set forth in this table the water systems manager shall initiate technical studies to determine the cause of the exceedance and shall recommend to the Lexington Water System the necessary remedial measures. The water systems manager may also recommend changes to these criteria in the event that the POTW effluent standards are changed, there are changes in applicable laws or regulations, or changes are needed for more effective operation of the POTW.

Protection criteria have been established for the WWTP influent and are listed in Table B.

TABLE B – PLANT PROTECTION CRITERIA

Parameter	Protection Criteria (mg/l)
Cadmium (Cd)	0.004
Chromium (Cr), VI	0.187

Parameter	Protection Criteria (mg/l)
Chromium (Cr), III	None
Copper (Cu)	0.291
Lead (Pb)	0.0438
Mercury (Hg)	0.00063
Nickel (Ni)	0.1613
Silver (Ag)	0.0032
Zinc (Zn)	1.505
Benzene	0.019
Carbon Tetrachloride	0.075
Chloroform	0.224
Cyanide (CN), Total	0.038
Ethylbenzene	0.040
Methylene Chloride	0.096
Naphthalene	0.013
Phenols (Total)	0.167
Phthalates (Total)**	0.921
Tetrachloroethylene	0.139
Toluene	0.375
1,2, Trans Dichloroethylene	0.008
1,1,1 Trichloroethane	0.300
Trichloroethylene	0.100

**The sum of bis(2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

(12) Storm drainage, ground, unpolluted and contaminated storm water. (a) No storm water, groundwater, rainwater, street drainage, rooftop drainage, basement drainage, subsurface drainage, foundation drainage, yard drainage, swimming pool drainage, process water drainage, cooling water, or other unpolluted or minimally polluted water shall be discharged into the system's sewer system unless no other

reasonable alternative is available, except with permission from the water system manager. Reasonable conditions shall be prescribed and a sewer service charge will be issued based upon the quantity of water discharged as measured by a flow meter or a reasonable estimate accepted by the water system manager. All users shall be required to maintain their private sewer lines so as to prevent infiltration of ground or storm water as a condition of use of the system and shall immediately replace or repair any leaking or damaged lines.

(b) The POTW will accept discharge of contaminated storm water if the following criteria are met:

(i) All known and available technology will not prevent contamination or treat contaminated water to meet state standards for discharge to receiving waters or will cause unreasonable financial burden;

(ii) The contaminated storm water meets the POTW's discharge limits and all state and federal pretreatment requirements; and

(iii) The volume of discharge will not exceed the hydraulic loading in the collection system or the treatment plant.

(13) Use of garbage disposals. No waste from garbage disposals shall be discharged into the POTW's sewers except from private garbage disposals used in an individual residence or upon permit issued by the water system manager for preparation of food consumed on premises, and then only when applicable fees are paid. It shall be unlawful for any person to use a garbage disposal grinder connected to the sewer system for the purpose of grinding and discharging plastic, paper products, inert materials, or anything other than the waste products from normal food preparation and consumption.

(14) Obstruction or damage to sewer. It shall be unlawful for any person to deposit or cause to be deposited any waste which may obstruct or damage storm or sanitary sewer lines or which may inhibit, disrupt, or damage either system, including the sewage treatment process and operations. This prohibition includes all substances, whether liquid, solid, gaseous, or radioactive and whether associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing. It shall be unlawful to block or obstruct any catch basin, sewer line, or other appurtenance; or to break, injure, or remove any portion from any part of a sewer, drain, or catch basin, including plates covering manholes. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011, and amended by Ord. #201501, Feb. 2015, and Ord. #201503, April 2015)

18-107. Control of prohibited pollutants. (1) Pretreatment requirements. Industrial users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities when necessary to reduce or modify the user's wastewater composition to achieve compliance with the limitations in wastewater strength set forth in §§ 18-106(10) and (11) of this

chapter to meet applicable national pretreatment standards, to prevent slug discharges or to meet any other wastewater condition or limitation contained in the industrial users wastewater discharge permit.

(2) Plans and specifications. Plans and specifications for wastewater monitoring and pretreatment facilities shall be prepared, signed, and dated by a competent environmental professional and be submitted to the water system manager for review in accordance with accepted practices. The water system manager shall review the plans within thirty (30) days of receipt and recommend to the user any appropriate changes. Prior to beginning construction of a monitoring or pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the water system manager. Prior to beginning construction, the industrial user shall also secure all necessary permits.

The user shall construct the pretreatment facility within the time frame specified in the compliance schedule of the wastewater discharge permit. Following completion of construction, the user shall provide the water system manager with as-built drawings to be maintained by the water system manager. The review of such plans and specifications will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce effluent complying with the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or methods of operations shall be reported to and approved by the water system manager prior to implementation.

(3) Prevention of accidental discharges. All users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this ordinance from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handing areas, and from diked areas or holding ponds of any waste regulated by this ordinance. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of regulated waste shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for accidental discharge. Plans, specifications, and operating procedures shall be developed by the user and submitted to the water system manager for review.

(4) Oil and grease control program. Disposal of oil by discharge to the sewer system is not permitted. Oils include automotive lubricating oils, transmission and brake fluid, other industrial oils, and vegetable oils used in a restaurant or food processing facility.

Dischargers of oil and grease waste shall be required to provide an equivalent of primary treatment based on gravity separation of visible and floating oil and grease sludge from wastewater discharges. Such treatment processes shall be subject to good management practices and approval by the water system manager. Dischargers shall also be subject to monitoring, entry inspection, reporting and other requirements as determined by the water system

manager. These dischargers may be required to apply for industrial waste discharge permits if it is determined that the dischargers are a source of prohibited pollutants, toxic pollutants, or are otherwise controlled by federal or state regulations. All dischargers of oil and grease as listed above are subject to all enforcement and penalty provisions of this ordinance.

(5) Slug control program. (a) Each user shall provide protection from slug discharges of restricted materials or other substances regulated by this chapter. A slug is defined as any discharge of a non-routine nature, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. No user shall be permitted to discharge into the system until the need for slug control plans or procedures has been reviewed by the water system manager.

(b) Certain users will be required to prepare slug control/spill response plans showing facilities and procedures for providing this protection. These plans shall be submitted to the water system manager for review and approval. All users required to have such a plan shall submit it within thirty (30) days of notification by the water system manager and complete implementation within ninety (90) days of notification. A slug control/spill response plan shall address, at a minimum, the following:

Description of discharge practices, including non routine batch discharges; description of stored chemicals; procedures for immediately notifying the water system manager of any slug discharge or spill resulting in a discharge, as required by § 18-107(5) of this chapter; and procedures to prevent adverse impact from any slug discharge or spill. 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.

(c) Industrial users are required to notify the water system manager immediately of any changes at its facility affecting potential for a slug discharge.

(d) In the case of a slug discharge, it is the responsibility of the user to immediately notify the POTW of the incident by telephone or in person. Information concerning the location of the discharge, type of waste, concentration and volume, and corrective action shall be provided by the user.

Within five (5) days following a slug discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures being taken by the user to prevent future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property, nor shall

notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.

(e) A notice shall be permanently posted on the user's premises advising employees of a contact to call in the event of a slug discharge. The user shall ensure that all employees who may cause or allow such slug discharge to occur are advised of the proper emergency notification procedure.

(6) Prohibition of bypass. (a) Except as allowed in subsection (c) below, bypass is prohibited, and the water system manager may take enforcement action against an industrial user for a bypass, unless:

(i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed.

(iii) The user submitted notices as required in § 18-109(13).

(b) The water system manager may approve an anticipated bypass after considering its adverse effect if the water system manager determines that it will meet the three (3) conditions listed in subsection (a) of this section.

(c) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the reporting provisions of § 18-109(13).

(7) Best Management Practices (BMPs). (a) The goal of the BMP plan is to maintain effluent concentrations of prohibitive pollutants at or below permitted limits.

(b) Within twelve (12) months of the effective date of any permit allowing for BMPs in place of compliance sampling the permittee shall develop a BMP plan and submit it to the water system manager for review and approval. The objective of the plan will be to identify pollution prevention and wastewater reduction opportunities and to implement those opportunities that are technically feasible. At a minimum the plan shall include the following:

(i) A list of members of the team responsible for developing the BMP plan.

(ii) An inventory of source pollutants subject to the BMP plan. The inventory shall include a description of each source and pollutant load from each source. Also included shall be the identification of the facility's benchmark for each pollutant subject to the BMP plan.

(iii) Description of the current and any past BMPs and their effectiveness.

(iv) Identification of technical evaluation of BMPs. BMPs shall include: substitution of materials; reformulation or redesign of products; modification of equipment, facilities, technology, processes, and procedures; and improvement in management, inventory control, materials handling or general operational phases of the facility.

(v) A schedule for implementation of feasible BMPs.

(vi) Methods used for measuring progress towards the goals set forth in the BMP plan and provisions for updating the BMP plan.

(c) The permittee shall monitor potential sources of prohibited pollutants based on the sampling schedule set forth in the user's permit.

(d) Within twelve (12) months of the effective date of any permits allowing for BMPs as an alternative to sampling, the permittee shall submit an annual report to the water system manager. The annual report shall include:

(i) All BMP plan monitoring results for the year;

(ii) Updated inventory of sources of pollutants subject to the BMP plan;

(iii) A summary of effectiveness of all BMPs implemented to meet the BMP plan goal; and

(iv) Any updates to the BMP plan.

(e) Permits may be modified, or revoked and reissued, to revise or remove the requirements for BMPs based on information collected under § 18-107(7). (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-108. <u>Wastewater discharge permits</u>. (1) <u>Applicability</u>. The provisions of this ordinance are applicable to all industrial users of the POTW. The Lexington Water System has an "approved POTW pretreatment program" as that term is defined in 40 C.F.R. part 403.3(d) and any permits issued hereunder to industrial users who are subject to or who become subject to a national categorical pretreatment standard shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the EPA or the State of Tennessee regarding such categorical standards unless an exception for the system's program or for the specific industrial categories is authorized.

(2) <u>Application and permit requirements</u>. Prior to discharging non-domestic waste into the POTW, all significant industrial users of the POTW shall obtain a wastewater discharge permit. The industrial user shall request that the water system manager determine if the proposed discharge is significant as defined in § 18-102. If the discharge is determined not to be significant, the water system manager may still establish appropriate discharge

conditions for the user. Any non-categorical industrial user designated as significant may petition the water system manager to be deleted from the list as significant on the grounds that there exists no potential for adverse effect on the POTW's operation or violation of any pretreatment standard or requirement.

All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the water system manager, pay appropriate fees, and agree to abide by the provisions of this ordinance and any specific conditions or regulation established by the water system manager. All original applications shall be accompanied by a report containing the information specified in § 18-108(3). All original applications shall also include a site plan, floor plan, and mechanical and plumbing plans and sufficient detail to show all sewers and appurtenances in the user's premises by size, location, and elevation. The industrial user shall also submit revised plans to the water system manager when alterations or additions to the user's premises affect said plans.

(3) Report requirements. The report required for all significant industrial users by § 18-108(2) or other provisions of this ordinance shall contain in units and terms appropriate for evaluation the information listed in subsections (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the water system manager a report which contains the information listed in subsections (a) through (f) below within one hundred eighty (180) days after the promulgation by the EPA of a national pretreatment standard under section 307(b) or (c) of the Act. This report is called the Baseline Monitoring Report (BMR). Industrial users who are unable to achieve a discharge limit set forth in § 18-106 without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in subsections (a) through (g) of this section. New sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit a report which contains the information listed in subsections (a) through (g) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (c) through (g) of this section. New sources shall submit the report a minimum of ninety (90) days prior to the commencement of discharge.

As specified, the report shall contain the following:

(a) The user shall submit the name and address of the industrial user including the name of the operator and owners.

(b) The industrial user shall submit a list of any environmental control permits for the facility.

(c) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user. This description should include a schematic process diagram

including a map showing the location of the industrial users and points of discharge to the POTW from regulated processes.

(d) The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the regulated process streams and all other streams as necessary to allow use of the combined waste stream formula. The water system manager may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(e) The user shall identify the pretreatment standards applicable to each regulated process. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard and as approved by standard methods approved by the water system manager. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the water system manager for approval. The sample shall be representative of daily operations.

In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the water system manager or the applicable pretreatment standards to determine compliance.

The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto. Where 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the water system manager determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, and approved by the water system manager.

The 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. The water system manager may allow the submission of a report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(f) A statement that has been reviewed by an authorized representative of the industrial user and certified by an environmental professional indicating if pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the industrial user to achieve compliance.

(g) If additional pretreatment or operation and maintenance procedures will be required to meet the pretreatment standards, the report shall contain the shortest schedule by which the industrial user will provide the additional pretreatment. The completion date in the schedule shall be no later than the compliance date established for the applicable pretreatment standard.

(h) The reports required by this section shall include a certification statement that is compliant with the requirements of § 18-109(10).

For purposes of this paragraph, when the context so indicates, the phrase "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the industrial user's discharging any incompatible pollutant regulated by § 18-106. For purposes of this paragraph, the term "pollutant" shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in § 18-106.

(4) Incomplete applications. The water system manager will act only on applications that are accompanied by a report which lists all the information required in § 18-108(3). Industrial users who have filed incomplete applications will be notified by the water system manager that the application is deficient and the nature of the deficiency and will be given thirty (30) days to correct such. If the deficiency is not corrected within that period or with such extended time as allowed by the water system manager, the water system manager shall deny the application and notify the applicant in writing of such action.

(5) Evaluation of application. Upon receipt of completed applications, the water system manager shall review and evaluate the applications and shall propose such special permit conditions as the water system manager deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this ordinance and all other applicable laws and regulations. The water system manager may also propose that the wastewater discharge permit be subject to one (1) or more special conditions in regard to any of the following:

(a) Pretreatment requirements.

(b) The average and maximum effluent limits, including best management practices, based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law.

(c) Limits on rate and time of discharge for flow equalization.

(d) Requirements for installation of inspection and sampling facilities.

(e) Specifications for self-monitoring procedures.

(f) Requirements for submission of technical and/or discharge reports.

(g) Requirements for records maintenance.

(h) Average and maximum mass emission rates or other appropriate limits when toxic pollutants are proposed or present in the industrial user's wastewater discharge.

(i) Other conditions deemed appropriate by the water system manager to ensure compliance with the ordinance or other applicable law or regulation.

(j) A reasonable compliance schedule, as determined by the water system manager, up to one (1) year in duration or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods of operation and maintenance.

(k) Requirements for the installation of facilities to prevent and control accidental discharges or spills at the user's premises.

(l) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.

(m) Requirements to control slug discharges.

(n) Statement of applicable civil and criminal penalties for the violation of pretreatment standards and requirements as part of an applicable compliance schedule.

(o) Permits shall have a statement of the duration for the permit.

(p) Permits shall have a statement of non-transferability.

(6) Notification of proposed permit conditions. (a) Upon completion of the evaluation, the water system manager shall notify the applicant of any special permit conditions proposed for inclusion in the wastewater discharge permit.

(b) The applicant shall have forty-five (45) days from and after the date of the water system manager's recommendations for special permit conditions to review same and file written objections with the water system manager in regard to any special permit conditions recommended. The water system manager may, but is not required to, schedule a meeting with applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections to attempt to resolve disputed issues concerning special permit conditions.

(c) If applicant files no objection to special permit conditions proposed by the water system manager or a subsequent agreement is reached concerning same, the water system manager shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein.

(7) Board to establish permit conditions. (a) In the event that the water system manager cannot issue a permit pursuant to § 18-108(6) above, the water system manager shall submit to the board the proposed permit conditions and the applicant's written objections at the next regularly scheduled meeting of the board or at a specially convened meeting.

(b) The board shall schedule a hearing within thirty (30) days following the meeting referred to above unless such time is extended for just cause shown to resolve any disputed matters relevant to such permit.

(c) The water system manager shall notify the applicant of the date, time, place, and purpose of the hearing scheduled by the board. The applicant and the water system manager shall have the right to participate in the hearing and present relevant evidence to the board concerning proposed special permit conditions or other matters being considered by the board.

(d) Following the hearing or additional hearings deemed necessary and advisable by the board, the board shall establish special permit conditions deemed advisable to ensure the applicant's compliance with this ordinance or other applicable laws or regulations and direct the water system manager to issue a wastewater discharge permit to the applicant accordingly.

(8) Compliance schedule and reporting requirements. The following conditions shall apply to the schedules required by § 18-108(5) of this chapter:

(a) Schedule components. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment requirements for the industrial user to meet the applicable pretreatment standards.

(b) Schedule intervals. No such increment shall exceed nine (9) months.

(9) Duration of permits. Wastewater discharge permits shall be issued for a time period not to exceed three (3) years. Permits issued to industrial users pursuant to § 18-107(7) shall be issued for a period of one (1) year.

Industrial users subject to a national pretreatment standard shall apply for new permits on the effective date of such standards. The water system manager shall notify in writing any industrial user whom the water system manager has cause to believe is subject to a national pretreatment standard of the promulgation of such regulations, but any failure of the water system manager in this regard shall not relieve the user of the duty of complying with such standards. An industrial user must apply in writing for a renewal permit within a period time not more than ninety (90) days and not less than thirty (30) days prior to expiration of the current permit.

Limitations or conditions of a permit are subject to modifications or change as such changes become necessary due to changes in applicable water quality standards, changes in the Lexington Water System's NPDES permit,

changes in §§ 18-106(10) or (11), changes in other applicable law or regulation, or for other just cause. Users will be notified of any proposed changes in their permit by the water system manager at least thirty (30) days prior to the effective date of the changes. Any change or new condition in the permit shall include a provision for a reasonable time schedule for compliance. The user may appeal the decision of the water system manager in regard to any changed permit conditions as otherwise provided for in this ordinance.

(10) Transfer of permit. Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation unless as approved by the water system manager. If approved by the water system manager a copy of the existing permit and any other control mechanisms shall be provided to the new owner or operator.

(11) Revocation of a permit. Any permit issued under the provisions of this ordinance is subject to modification, suspension, or revocation in whole or in part during its term for cause including, but not limited to, the following:

(a) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation.

(b) Obtaining of a permit by misrepresentation or failure to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(d) Refusal of reasonable access to the user's premise for the purpose of inspection and monitoring. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-109. Inspections, monitoring, and entry. (1) Inspections, monitoring, and entry. (a) When required to carry out the objective of this ordinance, including but not limited to:

(i) Developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this ordinance;

(ii) Determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition;

(iii) Any requirement established under this section.

(b) The water system manager shall require any industrial user to:

(i) Establish and maintain records;

(ii) Make reports;

(iii) Install, use, and maintain monitoring equipment or methods, including biological monitoring methods when appropriate;

(iv) Sample effluent in accordance with these methods, at such locations and intervals and in such a manner as the water system manager shall prescribe;

(v) Provide such other information as the water system manager may reasonably require.

(c) Specific requirements under the provisions of subsection (b) of this section shall be established by the water system manager or the board, as applicable, for each industrial user, and such requirements shall be included as a condition of the industrial user's wastewater discharge permit. The nature of any requirement under this provision shall depend on the nature of the user's discharge, the impact of the discharge upon the POTW, the volume of water discharged, and the technical feasibility of an economic reasonableness of any such requirement.

(d) The water system manager or his authorized representative, employees of the State of Tennessee, and employees of the Environmental Protection Agency shall, upon presentation of credentials:

(i) Have a right of entry to, upon, or through any user's premises in which an effluent source is located or in which any records required to be maintained under this ordinance are located.

(ii) Have access at reasonable times to and copy any records, inspect any monitoring equipment or method required of the user, and sample any discharge which the owner or operator of such source is required to sample.

(e) In the event any user denies the right of entry for inspection, sampling, inspecting and copying records, or verifying that a user is not discharging industrial wastes or performing other duties as shall be imposed upon the water system manager by this ordinance, the water system manager shall seek a warrant or use such other legal procedures as advisable and reasonably necessary to perform the duties of this ordinance.

(f) Any user failing or refusing to perform any duty imposed upon the user under the provisions of this section or who denies the right to enter the user's premises for purposes of inspection, sampling, inspecting and copying records, or other such duties as may be imposed upon the user by this section, shall be deemed to have violated the conditions of the wastewater discharge permit and such permit shall be subject to modification, suspension, or revocation under the procedures established in this ordinance. A user who does not have an industrial waste discharge permit and denies the right to inspect as described herein is subject to having the sewer service in question terminated.

(2) Reports. (a) Progress reports. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the water system manager including, as a minimum, whether it complied with the increment of progress to be met on such a date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months lapse between such progress reports to the water system manager.

(b) Ninety (90) day compliance report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the water system manager a report containing the information described in § 18-108(3)(d) through (f). For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, this report shall include the users' actual production during the appropriate sampling period.

(c) Self-monitoring reports. (i) All significant industrial users shall submit to the water system manager during the months of June and December, unless required more frequently in the pretreatment standard or in the industrial users permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by their permit. In addition, this report shall include a record of average and maximum daily flows. At the discretion of the water system manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the water system manager may agree to alter the months during which the above reports are submitted.

Those significant industrial users required to comply with BMPs shall submit an annual report to the water system manager during the month of December. This report shall contain the information described in § 18-107(7).

(ii) The water system manager, as applicable, may impose limitations on industrial users employing dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(d) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and nature and concentration where requested by the water system manager, as applicable, of pollutants contained therein which are limited by the

applicable pretreatment standards or industrial permit. For industrial users subject to equivalent mass or concentration limits established by the water system manager as alternative standards, the report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measured operation), the report shall include the user's actual average production for the reporting period. The frequency of monitoring shall be prescribed in the applicable treatment standard.

(3) Monitoring facilities. (a) All significant industrial users shall install a monitoring station of a standard design or one satisfactory to the water system manager by July 1, 1995.

All users who propose to discharge or who, in the judgment of the POTW, could now or in the future discharge wastewater with constituents and characteristics different from that produced by domestic premises may be required to install a monitoring facility.

(b) Installation. Required monitoring facilities shall be constructed, operated, and maintained at the user's expense. The purpose of the facility is to allow inspection, sampling, and flow measurement of wastewater. If sampling or metering equipment is also required by the POTW, it shall be provided, installed, and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside the building. The POTW may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

(c) Access. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for POTW, State of Tennessee, or EPA personnel. There shall be ample room in or near such a facility to allow accurate sampling and compositing of samples for analysis. The entire facility and any sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.

(d) The industrial user shall be required to design any necessary facility and to submit, according to the permit compliance schedule, an engineering report including detailed design plans and operating procedures to the water system manager for review in accordance with accepted engineering practices. The water system manager shall review the plans and other documents within thirty (30) days and shall recommend any change deemed appropriate.

(e) Upon approval of plans and other documents, the industrial user shall secure all building, electrical, plumbing, and other permits required and proceed to construct any necessary facility and establish

required operating procedures within the time provided in the industrial user's wastewater discharge permit.

(4) Sampling and analysis. (a) All collected samples must be of such nature that they provide a true and accurate representation of the industry's normal workday effluent quality. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in 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 does not exist. Facilities for which historical sampling data is available, the water system manager may authorize a lower minimum.

(b) Chain-of-custody procedures, sample preservation techniques, and sample holding times recommended by the EPA shall be followed in all self-monitoring activities. Grab samples must be used for pH, cyanide, phenols, oil and grease, sulfide, and volatile organics. All other samples shall be twenty-four (24) hour flow proportional composite samples, unless otherwise specified.

(c) Monitoring shall be performed at the approved monitoring station on the effluent sewer. Location and design of the monitoring station shall be subject to the review and approval of the water system manager. Any change in monitoring location will be subject to the approval of the water system manager.

(d) All analyses shall be performed in accordance with procedures established by the EPA under the provisions of section 304(h) of the Act and contained in 40 C.F.R. part 136 and its amendments or with any other test procedure approved by the EPA. Sampling shall be performed in accordance with the techniques approved by EPA or the water system manager.

(5) Dangerous discharge notification. (a) Telephone notification. Any person or user causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to human health and welfare or the environment, or which is likely to cause interference with the POTW, shall notify the water system manager immediately by telephone. In the absence of the water system manager, notification shall be given to the POTW employee then in charge of the treatment works. Such notification will not relieve the user from any expense, loss, liability, fines, or penalty which may be incurred as a consequence of the discharge.

(b) Written report. Within five (5) days following such an occurrence, the user shall provide the water system manager with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or

property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of a contact in the event of a dangerous discharge. Employees shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(6) Slug reporting. The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by § 18-107(5), by the industrial user.

(7) Notification of hazardous waste discharge. (a) On or before January 20, 1991, the user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of any discharge into the POTW of a substance which is listed or characteristic waste under section 3001 of RCRA. Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes and estimating the volume of hazardous wastes expected to be discharged during the following twelve (12) months. The notification must take place within one hundred eighty (180) days after the July 24, 1990 promulgation date of the domestic sewage study amendments to the pretreatment regulations. This requirement shall not apply to pollutants already reported under the self-monitoring requirements of § 18-109(2).

(b) Dischargers are exempt from the requirement of this paragraph during a calendar month in which they generate no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.5(2), (f), (g), and (j). Generation of more than fifteen (15) kilograms of hazardous waste does not require additional notification, except for the acute hazardous wastes specified in 40 C.F.R. 261.5(3), (f), (g), and (j).

(c) In the case of new regulations under section 3001 or RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW of the discharge of such substance within ninety (90) days of the effective date of such regulations, except for the exemption in subsection (b) of this section.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

(8) Notification of changed discharge. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes, for which the user has submitted initial notification under § 18-109(7).

(9) Provisions governing fraud and false statements. The reports required to be submitted under this section shall be subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of section 309(c)(4) and (6) of the Act, as amended, governing false statements, representation, or certification in reports required by the Act.

(10) Signatory requirements. The reports required by this section shall include a certification statement as follows:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The report shall be signed as follows:

(a) By a responsible corporate officer, if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a responsible corporate officer is:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation;

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which 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 control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the industrial user submitting reports required by this section is a partnership or sole proprietorship, respectively.

(c) By a duly authorized representative of the individual designated in subsection (a) of this section if:

(i) The authorization is made in writing by the responsible corporate officer.

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a person in position of equivalent responsibility or with overall responsibility for environmental matters for the company.

(iii) The written authorization is submitted to the control authority.

(d) If an authorization under subsection (c) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (c) of this section must be submitted to the water system manager prior to or in conjunction with any reports to be signed by an authorized representative.

(11) Reporting of violation. If sampling performed by an industrial user indicates a violation, the user shall notify the water system manager 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 water system manager within thirty (30) days after becoming aware of the violation. The industrial user is not required to re-sample if one of the following criteria is met:

(a) The POTW performs sampling at the industrial user at a frequency of at least once per month.

(b) The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(12) Reporting of all monitoring. If an industrial user subject to the reporting requirements in §§ 18-108(3) or 18-109(2) of this chapter monitors any pollutant more frequently than required by the water system manager using approved procedures prescribed in this ordinance, the results of this monitoring shall be included in the report.

(13) Notice of bypass. (a) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the water systems manager, if possible at least ten (10) days before the date of the bypass.

(b) An industrial user shall submit oral notice to the water system manager of an unanticipated bypass that exceeds applicable

pretreatment standards within twenty-four (24) hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The water system manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(14) Maintenance of records. (a) Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with baseline monitoring reports. Such records shall include for all samples:

(i) The date, exact place, method, and time of sampling and the names of the persons taking the samples.

(ii) The dates analyses were performed.

(iii) Who performed the analyses.

(iv) The analytical techniques/methods.

(v) The results of the analyses.

(15) Retention period. Any industrial user subject to the requirements established in this section, including documentation associated with baseline monitoring reports, shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make these records available for inspection and copying by the water system manager, TDEC Director of the Division of Water Pollution Control, and EPA. The retention period shall be extended during the course of any unresolved litigation regarding the user or upon request from the water system manager, or the EPA.

(16) Confidential information. Any records, reports, or information obtained under this section shall:

(a) In the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition; and

(b) Be available to the public to the extent provided by 40 C.F.R. part 232.

If, upon showing to the water system manager by any person that, if made public, records, reports, information, or particular parts (other than effluent data) to which the water system manager has access under this section, would divulge methods or processes entitled to protection as trade secrets of such person, the water system manager shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this chapter. Such record, report, or information may be disclosed to officers, employees, or authorized representatives of the United States or the State of Tennessee concerned with carrying out the provisions of the Act or when

relevant in any proceeding under this chapter or other applicable laws. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-110. Enforcement. (1) Enforcement response plan.[1] In order to apply enforcement actions toward violators of pretreatment permits or this sewer use ordinance in an efficient, objective and consistent manner, the enforcement response plan has been developed and is incorporated herein by reference. The enforcement response plan is intended as a guideline only and may be deviated from depending on the circumstances.

(2) Hearings. (a) Any hearing or re-hearing brought before the water systems manager and the Lexington Water Systems Board shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this section, the water system manager shall give the petitioner ten (10) days' written notice of the time and place of the hearing.

(ii) The hearing provided may be conducted by the water systems manager and the Lexington Water Systems Board at a regular or special meeting. A quorum of the board must be present at the regular or special meeting in order to conduct the hearing.

(iii) A verbatim record of the proceedings of the hearings shall be made and filed with the board in conjunction with the findings of fact and conclusions of law made pursuant to § 18-110(2)(a)(vi). The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the water systems manager to cover preparation fees.

(iv) In connection with the hearing, the chairperson of the board shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In the case of refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Henderson County shall have jurisdiction upon the application of the water systems manager to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such an order of the court is punishable by the court as contempt.

(v) On the basis of the evidence produced at the hearing, the board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further

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[1]The enforcement response plan is set out in its entirety in Appendix A of this code.

the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chairperson.

(vi) The decision of the board shall become final and binding on all parties unless appealed to the courts as provided in § 18-110(10)(2)(b).

(vii) Any person to whom an emergency order is directed shall comply therewith immediately but, on petition to the board, shall be afforded a hearing as soon as possible but in no case shall such a hearing be held later than three (3) days from the receipt of such a petition by the board.

(viii) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with rules 26 through 33 of the Tennessee Rules of Civil Procedure with the chairperson to rule on such manners as would require a ruling by the court under said rules.

(ix) The water systems manager shall first call witnesses, which shall be followed by witnesses called by the other party. Rebuttal witnesses shall be called in the same order. The chairperson shall rule on any evidentiary questions arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the water systems manager, his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(x) Any person aggrieved by an order or determination of the water systems manager, where an appeal is not otherwise provided by this section, may appeal said order or determination to be reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the water systems manager, and said notice shall set forth with particularity the action or inaction of the water systems manager complained of and the relief being sought by the person filing said appeal. A special meeting of the board may be called by the chairperson upon the filing of such an appeal, and the board may, at member's discretion, suspend the operation of the order or determination of the water systems manager on which is based the appeal until such time as the board has acted upon the appeal.

(xi) The vice chairperson or the chairperson pro tem shall possess all the authority delegated to the chairperson by this section when acting in their absence or place.

(b) An appeal may be taken from any final order or final determination of the water systems manager or board by any party who is or may be adversely affected thereby to the chancery court pursuant to the common law writ of certiorari set in Tennessee Code Annotated, § 27-8-101, within sixty (60) days from the date such order or determination is made.

(3) Civil penalty. (a) Any person or user who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(i) Violates any effluent standard or limitation imposed by a pretreatment program.

(ii) Violates the terms or conditions of a permit issued pursuant to pretreatment program.

(iii) Fails to complete a filing requirement of a pretreatment program.

(iv) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of a pretreatment program.

(v) Fails to pay user or cost recovery charges imposed by a pretreatment program.

(vi) Violates a final determination or order of the board.

(b) Any civil penalty shall be assessed in the following manner:

(i) The water systems manager may issue an assessment against any person or user responsible for the violation.

(ii) Any person or user against whom an assessment has been issued may secure a review of such assessment by filing with the water systems manager a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the water systems manager and the Lexington Water Systems Board. If a petition for review of the assessment is not filed within thirty (30) days of the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(iii) When any assessment becomes final because of a person's failure to appeal the water systems manager's assessment, the water systems manager may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Civil penalties will be assessed based on the following criteria:

(A) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.

(B) Damages to the POTW, including compensation for the damage or destruction of the facilities

of the POTW, which also includes any penalties, costs, and attorney's fees incurred by the POTW as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damage.

(C) Cause of the discharge or violation.

(D) The severity of the discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters.

(E) Effectiveness of action taken by the violator.

(F) The technical and economic feasibility of reducing or eliminating the discharge.

(G) The economic benefit gained by the violator.

(iv) The water systems manager may institute proceedings for assessment in the name of the Lexington Water Systems in the chancery court of the county in which all or part of the violation occurred.

(c) The Lexington Water Systems Board may establish, by regulation, a schedule of the amount of civil penalty which can be assessed by the water systems manager for certain specific violations or categories of violations.

(d) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Environment and Conservation for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). Provided, however, the sum of the penalties imposed by this section and by § 69-3-115(a) shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues to occur.

(4) Assessment of noncompliance. (a) The water systems manager may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person(s) or user(s) pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program.

(b) If an appeal from such assessment is not made to the water systems manager by the polluter or violator within thirty (30) days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or any other sections of this ordinance, in removing, correcting, and terminating any pollution, and also compensation for actual damages caused by the violation to the POTW. The water systems manager shall assess the expenses and damages incurred by the POTW to clear the obstruction, repair damage to the POTW, and otherwise rectify any impairment caused by the violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within thirty (30) days, the water systems manager shall bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the POTW. If the person responsible refuses to pay, the water systems manager may apply to the appropriate court for a judgment and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of assessment.

(5) Judicial proceedings and relief. The water systems manager may initiate proceedings in the chancery court of the county in which the activities occurred against any person or user who is alleged to have violated or is about to violate the pretreatment program, its industrial user permit, any section of this ordinance, or any order of the water systems manager and/or board. In such action, the water systems manager may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Administrative enforcement remedies. (a) Notification of violation. When the water systems manager finds that any use has violated or is violating this chapter or a wastewater permit or order issued hereunder, the water systems manager or his agent may serve upon the user a written Notice of Violation (NOV). Within ten (10) days of receipt of the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the water systems manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

(b) Consent orders. The water systems manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time frame also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (d) below.

(c) Show cause hearing. The water systems manager may order any user which causes or contributes to a violation of this ordinance, its wastewater permit, or any order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principle executive, general partner, or corporate officer. Whether or not a duly

notified user appears as noticed, immediate enforcement action may be pursued.

(d) Compliance order. When the water systems manager finds that a user has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements deemed reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) Cease and desist orders. When the water systems manager finds that a user has violated or continues to violate this ordinance or any permit or order issued hereunder, the water systems manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to do one of the following:

(i) Comply with the order.

(ii) Take the appropriate remedial or preventive action needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(f) Emergency termination of service. When the water systems manager finds that an emergency exists in which immediate action is required to protect public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or the facilities of the POTW, the water systems manager may, without prior notice, issue an order reciting the existence of such an emergency and requiring that certain action(s) be taken as the water systems manager deems necessary to meet the emergency.

If the violator fails to respond or is unable to respond to the water systems manager's order, the water systems manager may take such emergency action as deemed necessary or contract with a qualified person to carry out the emergency measures. The water systems manager may assess the person(s) responsible for the emergency condition for actual costs incurred by the water systems manager in meeting the emergency.

If the emergency action adversely affects the user, the water systems manager shall provide the user an opportunity to a hearing as soon as possible thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the water systems manager may take any such authorized action should the proof warrant such action.

(7) Disposition of damage payments and penalties. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the Lexington Water Systems and allocated and

appropriated to the sewer system for the administration of its pretreatment program.

(8) Vandalism. Any and all damages incurred by the POTW due to acts of vandalism will be prosecuted to the full extend of the law. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-111. Wastewater volume determination. (1) Metered water supply. Charges and fees related to the volume of wastewater discharged to the POTW shall be based upon the user's total water consumption from all water supply sources. The total amount of water used shall be determined from public meters installed and maintained by the Lexington Water Systems and/or private meters installed and maintained at the expense of the user and approved by the Lexington Water Systems

(2) Wastewater volume. When charges and fees based upon water usage and/or discharge and where, in the opinion of the POTW, a significant portion of the water received from any metered source does not flow into the sewer because of the principle activity of the user or removal by other means, the charges and fees will be applied only against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water must be provided by the user and approved by the Lexington Water Systems.

The users may install a meter of a type and at a location approved by the Lexington Water Systems to measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the water systems manager.

(3) Estimated wastewater volume. For users where, in the opinion of the Lexington Water Systems, it is unnecessary or impractical to install meters, charges and fees may be based upon an estimate of the volume to be discharged. The estimate shall be prepared by the user and approved by the water systems manager or his representative. The number of fixtures, seating capacity, population equivalent, annual production of goods and services, and other such factors as deemed rational by the POTW shall be used to estimate the wastewater discharge volume.

(4) Domestic flows. For the separate determination of the volumes of domestic and process flows from users for the purposes of calculating charges based on process wastewater flows alone, users shall install a meter of a type and at a location approved by the POTW. For users where, in the opinion of the POTW, it is unnecessary or impractical to install such a meter, the volume of the domestic and process wastewater shall be based upon an estimate prepared by the user and approved by the POTW. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-112. Wastewater charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the Lexington Water Systems which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act amendments. Charges and fees shall be determined in a manner consistent with regulations of the federal grant program in order that sufficient revenues are collected to defray the POTW's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for equipment replacement, capital outlay, bond service costs, capital improvements, and depreciation.

(2) Types of charges and fees. The charges and fees established in the Lexington Water System's schedule of charges and fees may include, but not be limited to, the following:

Sewer service line charges
Tap fees
Pretreatment program operating fees
User charges
Fees for monitoring requested by the user
Fees for permit applications
Fees based on wastewater characteristics and constituents
Fees for discharge of holding tank wastes
Inspection fees
Industrial user permit fees

(3) Determination of charges. Charges and fees shall be based upon a minimum basic charge for each premise, computed on the basis of normal wastewater from a domestic premise with the following characteristics:

BOD_5	300 mg/l
COD	600 mg/l
Suspended solids	300 mg/l
Ammonia-nitrogen	30 mg/l
Oil and grease	100 mg/l

The charges and fees for all users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that user as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, suspended solids, oil and grease, and flow volume.

(4) User charges. Each user of the POTW's sewer system will be levied a charge for payment of indebtedness of the Lexington Water Systems and for the user's proportionate share of the operation, maintenance, and replacement costs of the sewer system. A surcharge may be levied against those users with

wastewater that exceeds the strength of normal wastewater as defined in this ordinance.

The user charge will be computed from a base charge plus applicable surcharge. The base charge will be the user's proportionate share of the costs of operation, maintenance, and replacement for handling its periodic volume of normal wastewater plus the user's share of any bond amortization costs of the Lexington Water Systems.

(a) Operation, Maintenance, and Replacement (OM&R) user charges. Each user's share of OM&R costs will be computed by the following formula.

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

C_u	=	User's charge for OM&R per unit time.
C_t	=	Total OM&R costs per unit of time, less costs recovered from surcharges.
V_t	=	Total volume contribution from all users per unit time.
V_u	=	Volume contribution from individual user per unit time.

(b) Bonded indebtedness charges. Each user's share of bonded indebtedness costs will be based on a schedule which reflects the user's volumetric and/or waste strength contribution to the system.

(c) User surcharges. The surcharge will be the user's proportionate share of the OM&R costs for handling its periodic volume of wastewater which exceeds the strength of BOD_5, suspended solids, and/or other pollutants in normal wastewater as listed in § 18-112(3) of this chapter. The amount of surcharge will be determined by the following formula:

$$C_s = \frac{(B_c \text{ x } B + S_c \text{ x } S + P_c \text{ x } P)\ 8.24}{V_u}$$

Where:

C_s	=	Surcharge for wastewater exceeding the strength of normal wastewater expressed in dollars per billing period.
B_c	=	OM&R cost for treatment of a unit of BOD_5 expressed in dollars per pound.

B	=	Concentration of BOD_5 from a user above the base level of 300 mg/l expressed in mg/l.
S_c	=	OM&R costs for treatment of a unit of suspended solids expressed in dollars per pound.
S	=	Concentration of suspended solids from a user above the base level of 300 mg/l, expressed in mg/l.
P_c	=	OM&R costs for treatment of a unit of any pollutants which the POTW is committed to treat by virtue of an NPDES permit or other regulatory requirement, expressed in dollars per pound.
P	=	Concentration of any pollutant from a user above a base level. Base levels for pollutants subject to surcharge will be established by the water systems manager.
V_u	=	Volume contribution of a user per billing period in million gallons based on a 24 hour average for a billing period.

The values of parameters used to determine user charges may vary from time to time. Therefore, the POTW is authorized to modify any parameter or value as often as is necessary. Review of all parameters and values shall be undertaken at least annually.

(d) Pretreatment program charges. Industrial users may be required to pay a separate pretreatment program charge. This charge will be based on the user's proportional share of the costs of administering the POTW pretreatment program, which includes costs incurred by the POTW for verification monitoring, analysis, and reporting. Each user's share of the pretreatment program costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

C_u	=	User's charge for POTW pretreatment program per unit time.
C_t	=	Total POTW pretreatment program costs per unit time.
V_t	=	Total volume contribution of permitted industrial users per unit of time.

V_u = Volume contribution from a permitted industrial user per unit of time.

(5) Review of OM&R charges. The POTW shall review at least annually the wastewater contribution by users, the total costs of the OM&R of the treatment works, and its approved user charge system. The POTW shall revise the user charges to accomplish the following:

(a) Maintain the proportionate distribution of OM&R costs among users or classes of users.

(b) Generate sufficient revenue to pay the total OM&R costs of the treatment works.

(c) Apply any excess revenues collected to the costs of OM&R for the next year and adjust rates accordingly.

(6) Charges for extraneous flows. The costs of operation and maintenance for all flow not directly attributable to users, e.g., infiltration/inflow, will be distributed proportionally among all users of the treatment works.

(7) Notification. Each user will be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the user charges which are attributable to OM&R charges.

(8) Billing. Wastewater charges imposed by this ordinance shall be added to, included in, and collected with the monthly water service bills, and shall be due and payable monthly. This shall not affect the right of the POTW to collect wastewater charges from customers who utilize private or public water supplies from other utilities and who discharge wastewater to the POTW.

(9) Collection. Wastewater charges and fees imposed by this ordinance shall be collected by the Lexington Water Systems in a manner established by the water systems manager.

(10) Delinquent accounts. The Lexington Water Systems may discontinue water service to any customer who has a delinquent wastewater charge until such wastewater charge has been paid, except as provided by state or local law.

(11) Adjustments. The Lexington Water Systems shall make appropriate adjustments in the wastewater charge of sewer customers for over or under registration of utility meters, leaks, or other recognized adjustments. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-113. Administration. (1) Lexington Water Systems Board. In addition to any other duty or responsibility otherwise conferred upon the board by this ordinance, the water systems manager and the Lexington Water Systems Board shall have the duty and power as follows:

(a) To recommend amendments or modifications to the provisions of this ordinance.

(b) To hold hearings upon appeals from orders of actions of the water systems manager as may be provided under the provisions of this ordinance.

(c) To hold hearings related to the suspension, revocation, or modification of a wastewater discharge permit and issue appropriate orders relating hereto.

(d) To hold other hearings that may be required in the administration of this ordinance and to make determinations and issue orders necessary to effectuate the purpose of this ordinance.

(e) To request assistance from any officer, agent, or employee of the Lexington Water Systems and to obtain any necessary information or other assistance.

(f) The board, acting through its chairperson, shall have the power to issue subpoenas requiring attendance, the testimony of witnesses, and the production of documentary evidence relevant to any matter properly heard by the board.

(g) The chairperson shall be authorized to administer oaths to people giving testimony.

(2) Water systems manager. (a) Water systems manager and staff. The water systems manager and his/her staff shall be responsible for the administration of all parts of this section.

(b) Authority of water systems manager. The water systems manager shall have the authority to enforce all sections of this ordinance. He/she shall be responsible and have the authority to maintain and operate the various treatment works, sewer lines, pump stations, and other appurtenances of the POTW. The water systems manager shall be responsible for preparation of operating budgets subject to the normal budgetary processes of the Lexington Water Systems.

(c) Records. The water systems manager shall keep in his office or at an appropriate storage facility all applications required under this chapter a complete record thereof, including a record of all wastewater discharge permits.

(d) Notice of national pretreatment standards. The water systems manager shall notify users identified in 40 C.F.R. part 403.8(f)(2) of any applicable pretreatment standards or other applicable requirements promulgated by the EPA under the provisions of section 204(b) of the Act (33 U.S.C. 1284), section 405 of the Act (33 U.S.C. 1345) or under the provisions of sections 3001, 3304, or 4004 of the Solid Waste Disposal Act. Failure of the water systems manager to notify users shall not relieve the users from the responsibility of complying with these regulations.

(e) Public participation notice. The water systems manager shall comply with the public participation requirements of 40 C.F.R. part 425 in the enforcement of national pretreatment standards. The water systems manager shall at least annually provide public notification in the

largest local newspaper of all industrial users which, during the previous twelve (12) months, significantly violated applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, an industrial user is in significant violation if its violations meet one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of 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 by 40 C.F.R. 403.3(1);

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 C.F.R. 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(iii) Any other violation of a pretreatment standard or requirement as defined by 40 C.F.R. 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(v) Violation by ninety (90) days or more after the schedule date of a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide required reports, such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days of the due date.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations which the water systems manager considers to be significant.

(f) Regulations and standards. The water systems manager may promulgate rules, regulations, and design criteria not inconsistent with this ordinance and have them printed for distribution. These rules may include requirements for performing wastewater characterizations,

analysis, and other measurements by standard methods approved by the water systems manager.

(g) Sewer credits. The water systems manager shall approve secondary meters and determine other kinds of sewer use charge credits.

(h) Approves new construction. The water systems manager shall give approval in acceptance of newly constructed sanitary sewer lines, pump stations, and other appurtenances. (Ord. of Jan. 2, 1996, as replaced by Ord. #200402, Feb. 2004, and Ord. #201101, March 2011)

18-114. Validity. (1) Conflict. All ordinances or parts of ordinances inconsistent with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

(2) Savings clause. If any provisions, paragraph, word, section, or article of the ordinance comprising this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force. (as added by Ord. #201101, March 2011)

CHAPTER 2

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-201. Definitions.
18-202. Standards.
18-203. Construction, operation, and supervision.
18-204. Statement required.
18-205. Inspections required.
18-206. Right of entry for inspections.
18-207. Correction of existing violations.
18-208. Use of protective devices.
18-209. Unpotable water to be labeled.
18-210. Violations.
18-211. Conflicts with other provisions.

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

(1) "Public water supply." The waterworks system furnishing water to the city for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (Ord. of July 7, 1981)

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[1]Municipal code references
Sewer use: title 18.

18-202. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. of July 7, 1981)

18-203. 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 Health and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the water system manager of the Lexington Water Works or his representative. (Ord. of July 7, 1981)

18-204. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the water system manager of the Lexington Water Works a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. of July 7, 1981)

18-205. Inspections required. It shall be the duty of the Lexington public water supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the water system manager of the Lexington water works and as approved by the Tennessee Department of Health. (Ord. of July 7, 1981)

18-206. Right of entry for inspections. The water system manager of the Lexington water works or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (Ord. of July 7, 1981)

18-207. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the water system manager of the Lexington water works. (Ord. of July 7, 1981)

18-208. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the water system manager of the Lexington water works or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the water system manager of the Lexington water works prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the water system manager of the Lexington water works shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the water system manager of the Lexington water works. (Ord. of July 7, 1981)

18-209. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall

be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. of July 7, 1981)

18-210. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars ($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 fines and penalties, the water system manager of the Lexington water works of the City of Lexington shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or inter-connection has been discontinued. (Ord. of July 7, 1981)

18-211. Conflicts with other provisions. The provisions of this code, including the plumbing code of the Southern Standard Building Code which are in conflict with the provisions of this chapter, are hereby modified to the extent of the conflict. (Ord. of July 7, 1981)

CHAPTER 3

ANIMAL AND VEGETABLE FATS, OILS, AND GREASE, ETC.

SECTION

18-301. Definitions.
18-302. Control plan for (FOG) and food waste.
18-303. General criteria.
18-304. Design criteria.
18-305. Grease interceptor maintenance.
18-306. Additives.
18-307. Sand, soil, and oil interceptors.
18-308. Laundries.
18-309. Control equipment.
18-310. Alteration of control methods.
18-311. Enforcement and penalties.
18-312. [Deleted.]

18-301. Definitions. (1) "FOG control equipment." (a) Grease interceptor. A structure or device for separating and removing greases and grease complexes prior to the wastewater exiting the interceptor and entering the sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the interceptor and entering the sanitary sewer collection and treatment system. These structures or devices are often below ground units in outside areas and are built as two (2) or three (3) chamber baffled tanks.

(b) Grease trap. Grease Control equipment identified as an "under the sink" trap, a small container with baffles, or a floor trap. For a FSE approved to install a grease trap, the minimum size requirement is the equivalent of a twenty (20) gallon per minute/forty (40) pound capacity trap. All grease traps will have flow control restrictor and venting.

(2) "Food service facilities." Those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing. These facilities include restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants, or any other sewer users as determined by the city's wastewater department manager or his representative. Food service establishments will be classified as follows:

Class 1: Deli - engaged in the sale of cold cut and microwavable sandwiches/subs with no frying or grilling on site. FOOD SERVICE ESTABLISHMENTS preparing and serving specialty snacks such as ice cream, frozen yogurt, cookies, popcorn, coffee, juices, or sodas for consumption on or near the premises. FOOD SERVICE ESTABLISHMENTS primarily engaged in preparing and serving meals and snacks for immediate consumption from motorized vehicles or non motorized carts.

Class 2: Limited service food service establishments primarily engaged in providing food services where patrons generally order or select items and pay before eating. Food and Drink may be consumed on premises (a.k.a. fast food establishments) and caterers as defined as FOOD SERVICE ESTABLISHMENTS primarily engaged in providing single event-based food services. These establishments generally have equipment and vehicles to transport meals and snacks to events and/or prepare food at an off-premise site.

Class 3: Full service restaurants are defined as FOOD SERVICE ESTABLISHMENTS primarily engaged in providing food services to patrons who order and are served while seated)i.e., waiter/waitress services) and pay after eating. Buffet and cafeteria establishments are defined as FOOD SERVICE ESTABLISHMENTS known as cafeterias, buffets, or grill buffets, primarily engaged in preparing and serving meals for immediate consumption using cafeteria-style or buffet serving equipment, such as steam tables, refrigerated areas, display grills, and self-service non alcoholic beverage dispensing equipment.

Class 4: Institutions (schools, hospitals, prisons, etc.).

(3) "Grease (FOG)." Material composed primarily of fats, oil, and grease (FOG) from animal or vegetable sources. The terms fats, oil, and, grease shall be deemed as grease by definition. Grease does not include petroleum base products. These substances are detectable and measurable using analytical procedures established in the Environmental Protection Agency Code of Federal Regulations 40 CFR 136.

(4) "Oil/water separator." An approved and industry standard system that is specifically designed and manufactured to separate oil from water is required. The system shall allow the oil to be collected and removed on a regular basis as to prevent it from being discharged into the wastewater collection system. Only oil/water separators manufactured for that specific operation will be approved. Adequate support literature from the manufacturer will be required so as to allow a proper review by the wastewater department manager or his representative.

(5) "User." Any person or establishment including those located outside the jurisdictional limits of the city who contributes, causes, or permits the contribution or discharge of wastewater into the city's wastewater collection or treatment system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-302. Control plan for (FOG) and food waste. (1) Any new construction, renovation, or expansion of food service facilities shall be required to submit to the city a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.

The plan shall be approved by the wastewater department manager, or designee, before completion of construction. Upon completion of construction, notice of same shall be given to the wastewater department manager and a final inspection will follow.

(2) Any existing food service establishments shall also be required to submit a FOG and food waste control plan, within thirty (30) days from passage of this ordinance that will effectively control the discharge of undesirable materials into the wastewater collection system. After approval of the submitted plan by the wastewater department manager or his designee, the approved plan must thereafter be implemented within ninety (90) days from the date of notice of approval. Existing food service establishments that are classified under one of the classifications listed under the definitions section of this chapter will be required to have the following FOG removal equipment:

Grease control equipment sizing:

Minimum acceptable size of grease control equipment for each FOOD SERVICE ESTABLISHMENTS Classification will be as follows:

Class 1: Deli, Ice Cream shops, Beverage Bars, Mobil Food Vendors
20gpm/40 pound Grease Trap or a larger in floor trap

Class 2: Limited Service Restaurants/Caterers
1000 gallon Grease Interceptor

Class 3: Full Service Restaurants, Buffet and Cafeteria Facilities
1000 gallon Grease Interceptor

Class 4: Institutions (Schools, Hospitals, Prisons, etc.)
2000 gallon Grease Interceptor

Existing food service establishments that have FOG removal equipment in place will be monitored on an individual basis to determine if the removal equipment is adequate and if additional actions or equipment is needed to properly remove the FOG and prevent the FOG from entering the city's sewer collections lines. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-303. General criteria. (1) Installation requirements. All existing, proposed, or newly remodeled food service facilities inside the City of Lexington

wastewater service area shall be required to install, at the user's expense an approved, properly operated and maintained grease interceptor in a timely manner as set forth above. Users whose systems are deemed to be ineffective by the wastewater department manager or his representative shall be asked to increase the size of the system.

(2) Sanitary sewer flows. Sanitary sewer flows from toilets, urinals, lavatories, etc. shall not be discharged into the grease interceptor. These flows shall be conveyed separately to the sanitary sewer service lateral.

(3) Floor drains. Only floor drains which discharge or have the potential to discharge grease shall be connected to a grease interceptor.

(4) Garbage grinders/disposers. It is recommended that solid food waste products be disposed of through normal solid waste/garbage disposal means. If a grinder/disposal is used it must be connected to the grease interceptor. The use of grinders is discouraged since it decreases the operational capacity of the grease interceptor and will require an increased pumping frequency to ensure continuous and effective operation.

(5) Dishwashers. Commercial dishwashers must be connected to the grease interceptor. Dishwashers discharge soap and hot water which can melt grease and allow it to pass through an undersized grease interceptor. Interceptors must be sized accordingly to allow enough detention time to allow water to cool and grease to solidify and float to the top of the interceptor.

(6) Location. Grease interceptor shall be installed outside the building upstream from the sanitary sewer service lateral connection. This will allow easy access for inspection, cleaning, and removal of the intercepted grease at any time. A grease interceptor may not be installed inside any part of a building without written approval by the wastewater department manager, or his representative.

(7) Pass through limits. No user shall allow wastewater discharge concentration from grease interceptor to exceed one hundred (100) mg/L (milligrams per liter) as identified by EPA method 1664. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-304. Design criteria. (1) Construction. Grease interceptors shall be constructed in accordance with the City of Lexington's standards and shall have a minimum of two (2) compartments with fittings designed for grease retention. All grease removal devises or technologies shall be subject to the written approval of the wastewater department manager or his representative. Such approval shall be based on demonstrated removal efficiencies of the proposed technology.

(2) Access. Access to grease interceptors shall be available at all times, to allow for their maintenance and inspection. Access to interceptor shall be provided by two (2) manhole openings (one on each compartment) terminating at finished grade with cast iron frame and cover.

(3) Load-bearing capacity. In areas where additional weight loads may exist, the grease interceptor shall be designed to have adequate load-bearing capacity. (Example: vehicular traffic in driving or parking areas)

(4) Inlet and Outlet piping. Wastewater discharging to a grease interceptor shall enter only through the inlet pipe of the interceptor. Each grease interceptor shall have only one inlet and one (1) outlet pipe. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-305. Grease interceptor maintenance. (1) Cleaning/pumping.

(a) The user at the user's expense shall maintain all grease interceptors to assure proper operation and efficiency and maintain compliance with the city's pass-through limits. Maintenance of grease interceptor shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludge and solids. This work shall be performed by a qualified and licensed hauler.

(b) Decanting or discharging of removed waste back into the interceptor from which it was removed or any other grease interceptor, for the purpose of reducing the volume to be disposed, is prohibited.

(c) This service shall also include a thorough inspection of the interceptor and its components. Any needed repairs shall be noted. Repairs shall be made at user's expense.

(2) Cleaning/pumping frequency. (a) The grease interceptor must be pumped out completely a minimum of once every four (4) months, or more frequently, as determined when accumulations of FOG and settled solids reach twenty-five percent (25%) of the grease interceptor's overall liquid depth/ existing food service establishment's that currently pump their grease interceptor more frequently than the four (4) month frequency shall maintain their current pumping frequency.

(b) Under the sink traps will be cleaned completely of fats, oils, grease and food solids at a minimum of every two (2) weeks. If the FOG and food solids content of the grease trap is greater than fifty percent (50%), then the grease trap must be cleaned once per week, or as frequently as needed.

(c) In floor grease traps sized at a flow rate of one hundred (100) gallon per minute, two hundred (200) pound with a volume of one hundred fifty (150) gallons or larger will be cleaned completely of fats, oils, grease and food solids at a minimum of once every four (4) months. If the FOG and food solids content of the grease trap is greater than fifty percent (50%), then the grease trap must be cleaned as frequently as needed.

(3) Disposal. (a) All waste removed from each grease interceptor must be disposed of at a facility approved to receive such waste in accordance with the provisions of this program. In no way shall the pumpage be returned to any private or public portion of the city's sanitary sewer collection system.

(b) All pumpage from grease interceptors must be tracked by a manifest, which confirms pumping, hauling, and disposal of waste. The customer must obtain and retain a copy of the original manifest from the hauler.

(4) Maintenance log. A grease interceptor cleaning/maintenance log indicating each pumping for the previous twenty-four (24) months shall be maintained by each food service facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the wastewater department manager or his representative upon request.

(5) Submittal of records. Each user shall submit all cleaning and maintenance records to the wastewater department manager or his representative. The maintenance records shall include the following information:

(a) Facility name, address, contact person, and phone number;

(b) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease interceptor;

(c) Types of maintenance performed;

(d) Dates maintenance was performed;

(e) Date of next scheduled maintenance;

(f) Copies of manifests.

The user shall be required to submit maintenance records to the wastewater department manager or his representative on a biannual basis (twice per year). Records shall be submitted by March 31st and September 30th of each year.

The records shall be submitted to:

Lexington Water System
Attn. Wastewater System Manager
54 Monroe Ave.
Lexington, Tennessee 38351

The wastewater department manager or his representative will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the wastewater department manager or his representative, the user shall be required to perform the maintenance and records of said maintenance within fourteen (14) calendar days. Upon inspection by the wastewater department manager or his representative the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-306. Additives. (1) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria.

(2) The use of additives is prohibited with the following exceptions:

(a) Additives may be used to clean the FSE drain lines but only in such quantities that it will not cause fats, oils and grease to be discharged from the grease control equipment to the sewer system, or cause temporary breakdown of FOG that will later recongeal in the downstream sewer system.

(b) Microorganisms, typically cultured bacteria are added to the interceptor. Ideally these bacteria digest the FOG converting it to innocuous substances. Microorganisms are not prohibited as an additive. However, since bacteria need an environment with specific requirements to proliferate, the effectiveness of these organisms in the environment of the interceptor is not known.

(c) Use of any bacteria additive must be approved by the wastewater department manager or his representative prior to use.

(d) The use of approved additives will in no way be considered as a substitution to the maintenance, pumping and cleaning procedures required herein. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-307. Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations, car and truck maintenance facilities, fabricators, utility equipment shops, and other facilities (as determined by the wastewater department manager or his representative) that have sources of sand, soil, and oil shall install effective sand, soil and oil interceptors, interceptors, and/or oil/water separators. These systems shall be sized to effectively remove sand, soil, and oil at the expected flow rates. These systems shall be, at the user's expense, cleaned or pumped on a regular basis to prevent impact upon the wastewater collection and treatment systems. Users whose systems are deemed to be ineffective by the wastewater department manager or his representative shall be asked to change the cleaning frequency or to increase the size of the system. Owners or operators of washing facilities will be required to prevent the inflow of detergents and rainwater into the wastewater collection system.

Oil/water separator installations shall be required at facilities that accumulate petroleum oils and greases and at facilities deemed necessary by the wastewater department manager or his representative. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-308. Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage (into the wastewater collection system) of solids one-half inch (1/2") or larger in size such as rags, strings, buttons, or other solids detrimental

to the system. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-309. Control equipment. The equipment or establishments installed to control FOG, food waste, sand, soil, oil, and lint must be designed in accordance with the Southern Plumbing Code, the Tennessee Department of Environment and Conservation guidelines, most current engineering standards, or other applicable guidelines approved by the wastewater department manager or his representative. Underground equipment shall be tightly sealed to prevent inflow of rainwater and shall be easily accessible to allow regular maintenance and inspection.

Control equipment shall be maintained by the owner and/or operator of the facility as to prevent a stoppage of the wastewater collection system, and the accumulation of FOG, food waste, sand, soil, and lint in the collection lines, pump stations, and wastewater treatment plant.

If the City of Lexington is required to clean out the wastewater collection lines, as a result of a stoppage resulting from poorly maintained control equipment (or lack thereof) the owner or operator shall be required to refund the labor, equipment, materials, and any overhead costs to the city including any fines incurred due to any sanitary sewer overflow due directly to the stoppage.

The city retains the right to inspect and approve any and all installations of control equipment. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-310. Alteration of control methods. The City of Lexington, through the wastewater department manager or his representative, reserves the right to request additional control measures if existing control equipment is shown to be insufficient to protect the wastewater collection system and wastewater treatment plant from interference due to the discharge of FOG, sand, soil, lint, or any other undesirable materials. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-311. Enforcement and penalties. Any person who violates this chapter, in part or in whole, shall be guilty of a civil violation punishable under and according to the general penalty provision of the City of Lexington's Sewer Use Ordinance Enforcement Response Plan. Each day's violation of this chapter shall be considered a separate offense. (as added by Ord. #200701, Feb. 2007, and replaced by Ord. #200902, March 2009)

18-312. [Deleted.] (as added by Ord. #200701, Feb. 2007, and deleted by Ord. #200902, March 2009)

CHAPTER 4

ADJUSTMENT POLICY

SECTION

18-401. Adjustment policy.

18-401. Adjustment policy. (1) Definitions for terms used in this policy:

(a) Base month - The highest water usage month by the customer during the twelve (12) months prior to the leak.

(b) Cost of water - The average annual cost per thousand for

(i) The purchase of water from BRWDA,

(ii) The cost of the chemicals to treat the water and

(iii) The cost for the electricity at the water filter plant.

This cost shall be set as of the 1st of July each year based on the cost of water purchased from BRWDA, cost for treatment plant electricity and cost of chemicals to treat water.

(c) Major leak - A leak resulting in an increase of one hundred dollars ($100.00) or more over the highest water usage bill during the twelve (12) months prior to the leak.

(2) Bills for meters with uncommonly high readings due to a major leak will be adjusted down to the amount of the base month plus the cost of water for the excess amount over the base month usage.

(3) Customer must sign a statement explaining what the problem was and what action they took to correct it. Adjustment will be made if the customer can provide a receipt for material and/or labor showing the leak has been repaired by a licensed plumber. If the customer personally made the repair and is unable to provide a receipt, the leak must be verified by a LWS Service Tech.

(4) Only one (1) major leak adjustment will be permitted within a twelve (12) month consecutive period unless approved by the Lexington Water Systems Board. Exception would be a leak covering a two (2) month period due to the leak occurring during the end of one billing cycle but discovered and repaired during the next.

(5) For accounts that qualify for a water adjustment and are also on city sewer, the corresponding sewer bill will be adjusted down to the highest bill from the twelve (12) months immediately prior to the leak.

(6) Meters changed-out during the reading cycle will require adjustments.

(7) If a meter cannot be read due to various abnormal circumstances, the reading will be estimated and then adjusted (up or down) once an accurate reading can be obtained.

(8) Sewer adjustments for lawn watering and filling swimming pools will not be permitted. Customers should obtain a "lawn meter" to eliminate these sewer charges.

(9) An "adjustment request" form shall be completed and approved (signed off on) by the general manager or his/her designee prior to an adjustment being made. All information from the customer and the department pertaining to the adjustment shall be attached to the form. ONLY authorized personnel can enter adjustments into the system.

(10) Circumstances or situations not met by this policy shall go before the Lexington Water Systems Board for action. No adjustment shall be made in excess of the cost of the water to LWS as defined in item (1).

(11) All information pertaining to adjustments will be retained for a minimum of five (5) years.

(12) Excessive water use due to malfunctions of an automatic livestock waterer shall not qualify for an adjustment under this policy. (as added by Ord. #201206, May 2012, and amended by Ord. #201801, Jan. 2018)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

1. FAIR HOUSING PLAN.
2. WARDS.
3. TITLE VI COMPLIANCE MANUAL.
4. BEECH RIVER REGIONAL AIRPORT AUTHORITY.
5. PARKS AND RECREATION REGULATIONS.

CHAPTER 1

FAIR HOUSING PLAN

SECTION

20-101. Definitions.
20-102. Unlawful acts.
20-103. Exception.
20-104. Access to multiple-listing services, etc.
20-105. Complaints.
20-106. Violations.
20-107. Exhaustion of remedies.
20-108. Fair housing committee.

20-101. 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 or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust unincorporated organizations, trustee, 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.

(5) "Fair housing committee" means that body appointed to hear, make determination, issue findings in all cases of discriminatory practice as well as implement educational and conciliatory strategies. (Ord. of May 6, 1980)

20-102. <u>Unlawful acts</u>. 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 provision 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, or 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, sex, or national origin. (Ord. of May 6, 1980)

20-103. <u>Exception</u>. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, or sex. (Ord. of May 6, 1980)

20-104. <u>Access to multiple-listing services, etc</u>. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing services, real estate brokers' organization or other service, organization, or facility relating to 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. (Ord. of May 6, 1980)

20-105. <u>Complaints</u>. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the mayor, chairman of the "fair housing committee." A complaint shall be filed within 30 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 said committee. Upon receipt of a complaint, the committee shall promptly investigate it and shall complete its investigation within 15 days. If a majority of the committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with a violation of this chapter refuses to furnish information to said committee, the 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 committee, within 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. (Ord. of May 6, 1980)

20-106. Violations. 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 $50.00 for each offense. Each day such violation shall continue constitutes a separate offense. (Ord. of May 6, 1980)

20-107. 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 act or other applicable legal provisions. (Ord. of May 6, 1980)

20-108. Fair housing committee. There is created hereunder a fair housing committee, which is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing it. The 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 committee may issue reports on such conferences and consultations as it deems appropriate. The committee shall establish an affirmative action plan to implement the purposes of this chapter. (Ord. of May 6, 1980)

CHAPTER 2

WARDS

SECTION

20-201. City divided into seven (7) wards.

20-201. City divided into seven (7) wards. The City of Lexington, Tennessee, hereinafter referred to as the city, is divided into seven wards for the purpose of electing an aldermen from each of the seven wards in city elections, whose boundaries are as follows:

WARD 1: The southern boundary of Ward 1 begins at the intersection of the city limits at Pine Cone Drive and follows Pine Cone Drive east to Old Huntingdon Road, then follows Old Huntingdon Road south to Tanglewood, then follows Tanglewood east to Wildwood Drive, then follows Wildwood Drive south to Honeysuckle Drive, then follows Honeysuckle Drive east to Meadowlark Lane, then follows Meadowlark Lane south to the end of Meadowlark Lane and a drainage ditch, then follows the center of the drainage ditch east to North Broad Street, then follows North Broad Street south to Hall Street, then follows Hall Street east to Natchez Trace Drive, and then follows Natchez Trace Drive northeast to the city limits. The boundary then starts in a northwesterly direction following the city limits to the intersection at Pine Cone Drive the point of the beginning.

WARD 2: The southern boundary of Ward 2 begins at the intersection of the city limits at Huntingdon Street and follows Huntingdon Street southeast to Deerwood, then follows Deerwood east to Circle Drive, then follows Circle Drive southeast and south to Parkview Courts, then follows Parkview Counts east to North Broad Street, then follows North Broad north to a point on the southwest corner of the lot located on the south corner of North Broad and Britt Street, said lot being parcel 15 "group E" on Henderson County tax map 82-B as updated April 1999, then follows a line along the southern boundary of said lot and parcel 14 "group E" on Henderson County tax map 82-B as updated April 1999, said line continuing east to Sunset, then follows Sunset north to Britt, then follows Britt east continuing to the abandoned railroad, then follows the abandoned railroad north to Hamlett, then follows Hamlett east to Maywood, then follows Maywood south to Hayes, then follows Hayes east and southeast to Natchez Trace Drive, then follows Natchez Trace Drive northeast to Greenbriar, then follows Greenbriar east to Hedgewood, then follows Hedgewood south to Leota Drive, then follows Leota Drive along the southern right of way east to the city limits, then follows the city limits starting in a northerly direction to the intersection of the city limits and Natchez Trace Drive, then starts in a southwesterly direction following the southern boundary of

Ward 1 to the intersection of Pine Cone Drive and the city limits. The boundary then follows the city limits starting in a southerly direction and ending at Huntingdon Street the point of the beginning.

WARD 3: The southern boundary of Ward 3 begins at the city limits at a point 600 feet west of Smith and starts in a easterly direction following the city limits to the intersection of the city limits and Leota Drive, then starting west follows the boundary of Ward 2 to Airways, then follows Airways southeast to the southeast corner of the property known as Franklin Wilkins Airport, then northwesterly following this property line to the abandoned railroad, then follows the abandoned railroad south to Town Branch, then follows Town Branch southeast to East Church Street, then follows East Church east to Eastgate, then follows Eastgate south to Franklin, then follows Franklin west to South Main, then follows South Main south to Vine Street, then follows Vine Street west to Derryberry, then follows Derryberry south to Bedwell, then follows Bedwell west and continues in a straight line 600 feet beyond the intersection with Smith, then follows a line parallel to and 600 feet west of Smith south to the city limits the point of the beginning.

WARD 4: The Southern boundary of Ward 4 begins at the intersection of the city limits and Old Jackson Road and follows the city limits southeast to the intersection of the TVA power lines, then follows the TVA power line southeast to South Broad Street, then follows South Broad Street south to Dixon, then follows Dixon east to Maple, then follows Maple south to Stanford, then follows Stanford east to Elm, then follows Elm south to Linden, then follows Linden east to South Main Street, then follows South Main south to Franklin. The boundary then starts in an easterly direction along the boundary of Ward 3 to the intersection of Airways and Natchez Trace Drive, then follows Natchez Trace Drive southwest to Dennison Drive, then follows Dennison Drive north to Brown Street, then follows Brown Street west to North Broad Street, then follows North Broad south to Wilson Street, then follows Wilson Street northwest to Huntingdon Street, then follows Huntingdon Street northeast to Essary Street, then follows Essary Street northwest to Boswell Street, then follows Boswell Street west to Hospital Drive, then follows Hospital Drive south to North Main Street, then follows North Main Street west to Old Jackson Road then follows Old Jackson Road to the intersection of the city limits the point of the beginning.

WARD 5: The western boundary of Ward 5 begins at the intersection of the TVA power lines and the city limits and follows the city limits starting in a southeasterly directions to the intersection of the beginning point of the southern boundary of Ward 3, then follows the boundary of Ward 3 in a northerly direction to the intersection of Franklin and South Main, then follows

the boundary line in Ward 4 starting in a northerly direction to the intersection of the TVA power lines and the city limits the point of the beginning.

WARD 6: The southern boundary of Ward 6 begins at the intersection of the city limits and Highway 412 West and follows the city limits beginning in a southerly direction to the intersection of the city limits and Old Jackson Road, then follows Old Jackson Road east along the boundary of Ward 4 to the intersection of Hospital Drive and West Church Street, then follows West Church Street west to Benwood Drive, then follows Benwood Drive north to One Mile Branch, then follows One Mile Branch east to the city limits, then follows the city limits beginning in a northerly direction to the intersection of the city limits and highway 412 West the point of the beginning.

WARD 7: Ward 7 is bounded on the north by Ward 2, on the east and south by Ward 4, and on the west by Ward 6. (Ord. #970001, May 1997, as amended by Ord. #200301, Jan. 2003)

CHAPTER 3

TITLE VI COMPLIANCE MANUAL

SECTION

20-301. Title VI Compliance Manual adopted.
20-302. Policy statement.

20-301. Title VI Compliance Manual adopted.[1] The Title VI Compliance Manual for the City of Lexington is hereby adopted in its entirety by reference. (as added by Ord. #200204, April 2002)

20-302. Policy statement. The following statement shall be deemed as the City of Lexington's Title VI policy statement: "It is the policy of the City of Lexington to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (as added by Ord. #200204, April 2002)

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[1]The Title VI Compliance Manual is of record in the office of the city recorder.

CHAPTER 4

BEECH RIVER REGIONAL AIRPORT AUTHORITY

SECTION

20-401. Establishment of airport authority.

20-401. Establishment of airport authority.[1] The City of Lexington, Tennessee hereby adopts and authorizes the creation of the Beech River Regional Airport Authority. (as added by Ord. #200211, Aug. 2002)

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[1]Ordinances #200208 and 200211 authorize the creation of the Beech River Regional Airport Authority and an airport authority board of commissioners and are of record in the city recorder's office.

CHAPTER 5

PARKS AND RECREATION REGULATIONS

SECTION

20-501. Rules and regulations.

20-501. Rules and regulations. In order to protect the City of Lexington's investment, provide for efficient operation, ensure equitable treatment of patrons and generate a healthy recreational environment for the children and citizens of Lexington, the following rules and regulations shall apply to uses of the City of Lexington parks:

(a) General rules. Alcoholic beverages, weapons (of any kind), animals/pets, three/four wheelers are not allowed in park(s). Bicycles, skateboards, in-line skates and rollerblades are allowed in designated areas only. Inappropriate behavior will not be tolerated. Violators will be subject to prosecution. Park hours: April - August 8:00 A.M. to 11:00 P.M. and September - March 8:00 A.M. to 10:00 P.M.

(b) Field rainout policy. Determination of field rainouts shall be made by the park foreman or, in his absence, the public works director. The decision of whether the fields are playable will be made by 3:00 P.M. or sooner on that day. The park foreman will contact the radio station and Lexington Police Department for announcement of the rainout. Under no circumstances will games be played on fields after rainouts have been called.

(c) Saturday and Sunday. Park employees will come in at 7:00 A.M. only if leagues have rainouts or scheduled games. If fields are not playable, games will be rescheduled for the next week.

(d) Communication. All communication with the parks department shall be initiated through the park office (968-5338). Leave your name, contact number and the nature of your request. The park foreman will respond as needed at his earliest convenience. Calls will be taken from 8:00 A.M. to 5:00 P.M. Monday through Friday. League requests shall be made by the league presidents only. For after hours emergencies: Call Lexington Police Department (968-6666).

(e) Visits to park employees. In order for the parks and recreation department employees to do their job, we require that you refrain from making visits at the park with these employees.

(f) Scheduling. All league game schedules must be turned in to the park foreman no later than two (2) weeks prior to the start of the season. Any scheduling changes must be requested with the park foreman twenty-four (24) hours in advance. The parks and recreation department will not be responsible for any scheduling problem due to lack

of communication from leagues. "Request for scheduling" forms are available at the park office on Natchez Trace Drive.

(g) Tournaments. Park employees will prepare the fields one (1) time each day during tournaments. Any special request for field preparation must be made in writing to the park foreman.

(h) Concession stands. Leagues will be allowed to operate concession stands during their season(s) in the concession stand associated with their field and/or, with written approval by the park foreman, in temporary/portable stands to be located in the area of their field. Use of any other building will not be allowed. Storage of concession items by leagues will be allowed only in the concession stands associated with their fields. All trailer type equipment must be properly secured including wheels chocked (Examples: coke wagons, barbeque grills, etc.). a copy of specific regulations can be picked up at city hall or the park office.

(i) Field maintenance. All field maintenance shall be performed by park employees or city authorized contractors. No one else is allowed to work on any field or any park grounds. This includes but is not limited to:

(i) Removal or addition of dirt;

(ii) Removing or moving bases, home plate and/or pitching rubber; or

(iii) Removing standing water anywhere on the fields. "Request for repairs and projects" forms are available at the park office on Natchez Trace Drive. Leagues must submit requests to the parks and recreation department.

(j) Construction projects. Specifications and drawings of proposed construction projects by any league must be submitted by the league president for approval by the park foreman, public works director, building inspector and, in certain cases, the board of mayor and aldermen. The City of Lexington will hold no liability for construction projects that are not city funded.

(k) Scheduling of pavilions. Use of a pavilion at the city park(s) may be scheduled by contacting the park office (968-5338). Leave call back information, date and time of requested use. The park foreman will call as soon as possible to confirm reservation of pavilion. There is no rental charge for the use of park pavilions but clean up of the area after use is required.

(l) Parking. Vehicles must park in allotted parking areas. Special consideration will be given for the elderly, handicapped or special needs individuals. Illegally parked vehicles will be ticketed. To make arrangements for special consideration parking, contact the park office. Vehicles left overnight may be towed at owner's expense. Call the police department to make them aware of a problem.

(m) Use of grills. Any type of charcoal or gas grills used at park(s) must be removed after use. Ashes from charcoal grills cannot be dumped on park property. It must be removed from the park grounds.

(n) Parks and recreation office. The parks and recreation office is available for community meetings. At the beginning of each year, a new scheduling calendar is placed in the office. Contact the park office to schedule use. Requests will be filled on a first come first serve basis. You will be contacted by the park foreman to confirm. No food or drinks are allowed in the park office; furniture cannot be moved; and, clean up is required. Violators of these rules shall be banned from use.

(o) Cleanliness of park grounds: It is the responsibility of everyone that frequents our city parks to keep them clean and safe. Trash containers are placed throughout the parks for convenient disposal of trash and litter. Trash from the dugouts and playing field shall be picked up by leagues and placed in proper trash containers. Leagues must encourage spectators not to litter but to keep our parks clean and neat. Patrons of the pavilions, play grounds, etc. shall not litter and shall clean up after uses.

(p) Lexington City Pool. The Lexington City Pool is open to the public with an admission fee and also available to rent for private parties. For information, rates, and scheduling contact the park office (968-5338).

(2) Any violation of the provisions of this ordinance that are designated misdemeanors shall be punishable by a fine not to exceed fifty dollars ($50.00) per day for each violation. The court may also order a person found to have committed a misdemeanor under this ordinance to make full restitution.

(3) These regulations are in addition to other applicable city, state and federal laws. (as added by Ord. #200806, Nov. 2008)

APPENDIX A

ENFORCEMENT RESPONSE PLAN

(as added by Ord. #201101, March 2011)

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ENFORCEMENT RESPONSE PLAN
LEXINGTON WATER SYSTEMS

I. INTRODUCTION

The Domestic Sewage Study (DSS) amendments to the General Pretreatment Regulations (Federal Register, July 14, 1990) require all Publicly Owned Treatment Works (POTW) with approved pretreatment programs to develop and implement an Enforcement Response Plan (ERP). The regulations require that the Plan shall contain detailed procedures of how the POTW will respond to instances of industrial user noncompliance. At a minimum, the plan shall:

(1) Describe how the POTW will investigate instances of noncompliance;

(2) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

(3) Identify by title the official(s) responsible for implementing each type of enforcement response;

(4) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards as provided in 40 CFR 403.8(f)(1) and (2).

When properly developed and implemented, the Enforcement Response Plan will provide the POTW with an efficient, objective, and consistent means of responding to instances of industrial user noncompliance.

The following document details the steps to be taken by the Lexington Water Systems to achieve compliance with all State and Federal regulations and requirements. The primary document utilized in preparing this Plan was the EPA publication "*Guidelines for Developing Control Authority Enforcement Response Plans*." Federal and State regulations (40 CFR, Part 403 and Tennessee Code Annotated 69-3-101 through 129, respectively) were also used as reference documents.

The available personnel, along with the minimum responsibilities that will be required of each title needed to implement the Enforcement Response Plan, will consist of the following:

Field Inspector

Working closely with the Pretreatment Coordinator, will be responsible for coordination and collection of wastewater samples from both the industrial uses and the wastewater treatment plant (WWTP). Will assist in performing scheduled and unscheduled sampling and field inspection of IUs. Assists in compliance tracking and determination of level of noncompliance. Can make phone calls and/or issue Notice of Violation (NOV) in minor instances of noncompliance.

Pretreatment Coordinator

Person primarily responsible for day-to-day monitoring of compliance status of IUs. Will schedule sampling events for IUs and at WWTP. Will implement demand monitoring when deemed necessary. Primary responsibility for tracking IU information and for determining necessary levels of enforcement. Principle liaison between City and IUs. Will keep the Water Systems Manager apprised of all developments regarding IU compliance status and will be the primary source of reference for higher levels of enforcement. Issues NOVs for minor and moderate levels of noncompliance. Will issue Administrative Orders (AO) and/or fines after consultation with the Water Systems Manager.

Water Systems Board

Members of the Lexington Board of Aldermen as appointed by the Mayor of Lexington, as the governing body over the Lexington Water Systems. The Water Systems Board will act as an appeals board if administrative enforcement action is appealed.

Water Systems Manager (Manager)

At the request of the Pretreatment Coordinator, will institute higher degrees of enforcement (i.e. termination, criminal prosecution). Will inform Lexington Water Systems Board of the background and need for such actions. Has authority to issue cease-and-desist orders and/or emergency termination of service when necessary.

Attorney

Will assist POTW personnel and provide guidance on legality of chosen enforcement procedures against Ius. Reviews Sewer Use Ordinance (SUO) and other pertinent documents to assure conformance to State law. Represents Lexington Water Systems in any court action resulting from enforcement actions.

Consultant

At the request of the POTW, will provide guidance on all aspects of compliance tracking and monitoring of IUs. Will provide technical expertise, when necessary, to assure that enforcement actions follow generally accepted protocol.

II. ENFORCEMENT RESPONSE PLAN

The Lexington Water Systems Pretreatment Program has been approved by the State of Tennessee and is responsible for the enforcement of all Federal, State, and Local wastewater discharge regulations. The primary purpose of the Enforcement Response Plan is to assure fair, consistent, and impartial enforcement. This Section describes each type of violation and indicates a range of appropriate enforcement options.

For the purpose of this Plan, insignificant noncompliance is considered a relatively minor or infrequent violation of pretreatment standards or requirements. These will usually be responded to with a Notice of Violation (NOV). Examples of violations which may be considered insignificant noncompliance are:

Failure to file a permit renewal application but remaining in compliance with the expired permit.

A reported spill with no adverse effects.

Isolated, minor exceedance of discharge limits.

Failure to properly sign or certify reports (first instance).

Missed interim or final compliance deadline by 30 days or less (good cause).

Filing a late report (less than 5 days late)

Significant noncompliance has been defined by the Environmental Protection Agency (EPA) as violations which meet one or more of the following criteria:

(1) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(2) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW 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 human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(5) Violation by 90 days or more after the schedule date of a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days of the due date.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations which the Water Systems Manager considers to be significant.

In general, an isolated instance of noncompliance can be met with an informal response or with a NOV. Any significant noncompliance should be responded to with an enforceable order that requires a return to compliance by a specific deadline along with the applicable monetary penalties.

In determining the proper response to a violation, whether significant or not, the following criteria should be considered:

Magnitude of the violation
Duration of the violation

Impact of the violation on the receiving waters
Impact of the violation on the POTW
Compliance history of the industrial user
Good faith of the industrial user.

Since pretreatment enforcement is a matter of strict liability, the knowledge, intent, or negligence of the user should not be taken into consideration except when deciding to pursue criminal prosecution.

An administrative penalty is a monetary penalty assessed by the Lexington Water Systems for violations of pretreatment standards and requirements. Administrative penalties should be used as an escalated enforcement action and are punitive in nature and are not to be related to a specific cost borne by the POTW. The amount of the penalty assessed should recapture any economic benefit gained by the noncompliance and/or act as a deterrent to future violations.

Determining the penalty amount which reflects the violation's significance is very important. If the penalty is too small, its deterrent value is lost and the violator may regard it as a tax or nominal charge to pollute. If the penalty is too great, it could bankrupt the user, making necessary investments in pretreatment equipment impossible and forcing unnecessary closure. In cases of extreme hardship, the Water Systems Manager may consider reducing or suspending the penalty as part of a consent decree or show cause hearing.

Each type of violation has been categorized and a range of penalties assigned to each category, thereby allowing the responsible designated official to apply an appropriate monetary assessment. All penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 0	=	No penalty
Category 1	=	$50.000 to $500.00
Category 2	=	$500.00 to $1,000.00
Category 3	=	$1,000.00 to $5,000.00
Category 4	=	$5,000.00 to $10,000.00 and/or direct legal action

Enclosed as Table II.1 is the Enforcement Response Plan which will be utilized by the Lexington Water Systems to determine appropriate and objective responses to instances of noncompliance. This Plan is basically identical to the one contained in the previously cited guidance documents. Minor changes have been made in order to adapt it to conditions applicable to Lexington. A column has been added specifying the penalty category each violation falls under. Time

frames for enforcement responses are included on the final page of the Enforcement Response Plan.

The Enforcement Response Plan is used as follows:

(1) Locate the type of noncompliance in the first column and identify the most accurate description of the violation in column 2;

(2) Assess the appropriateness of the recommended response(s) in column 3 and 4 using the criteria of magnitude, duration, effects, compliance history, and good faith;

(3) Apply the enforcement response to the industrial user, specifying corrective action(s) or other responses required of the IU. Column 5 indicates responsible POTW personnel;

(4) Track IU's response and follow up with escalated enforcement action if a response is not received within the specified time frame or the violation continues.

ABBREVIATIONS USED IN ENFORCEMENT PLAN

I	-	Field Inspector
PC	-	Pretreatment Coordinator
M	-	Water Systems Manager
NOV	-	Notice of Violation
AO	-	Administrative Order
IU	-	Industrial user

Table II.1 - Enforcement Response Plan
City of Lexington Pretreatment Program

Unauthorized Discharge (no permit)				
Noncompliance	Nature of violation	Category	Enforcement Response(s)	Personnel
Unpermitted discharges	IU unaware of requirement; no harm to POTW or environment	0	Phone call; NOV with application form	I, PC
	IU unaware of requirement; harm to POTW or environment (significant noncompliance)	3	- AO and fine - Civil action, termination of service	PC D
	Failure to apply continues after notification by POTW	4	- Civil action - Criminal investigation - Terminate service	M M M
Failure to renew permit	IU has not submitted application within 10 days of due date	0	Phone call; NOV	PC
Discharge Permit Violation				
Exceedance of local, state or federal standard	Isolated, not significant	0	Phone call; NOV	I, PC
	Isolated, significant (no harm)	1	AO to develop spill prevention plan (if not previously submitted) and fine	PC
	Isolated, harm to POTW or environment	3	- Show cause order - Civil action	PC, M M

Noncompliance	Nature of violation	Category	Enforcement Response(s)	Personnel
	Recurring, no harm to POTW or environment	2	AO and fine	PC
	Recurring, significant (harm to POTW or environment)	4	- AO with fine - Show cause order - Civil action - Terminate service	PC PC, M M M
Monitoring and Reporting Violations				
Reporting violation	Report improperly signed or certified	0	Phone call; NOV	I, PC
	Report improperly signed or certified after notification by POTW	1	- AO - Show cause order	PC PC, M
	Isolated, not significant (5 days late)	0	Phone call; NOV	I, PC
	Significant (> 5 days late)	1	AO to submit with fine for each additional day	PC
	Report always late; failure to submit (significant noncompliance)	4	- AO with fine - Show cause order - Civil action	PC PC, M M
	Failure to report spill or discharge changes (no harm)	0	NOV	PC
	Failure to report spill or discharge changes (harm)	2	- AO with fine - Civil action	PC M
	Repeated failure to report spills	4	- Show cause order - Terminate service	PC, M M

Noncompliance	Nature of violation	Category	Enforcement Response(s)	Personnel
	Falsification	4	- Criminal investigation - Terminate service	M M
Failure to monitor correctly	Failure to monitor all permit required pollutants	1	NOV or AO	I, PC
	Recurring failure to monitor	2	- AO with fine - Civil action	PC M
Improper sampling	No evidence of intent	0	NOV	PC
	Evidence of intent	4	- Criminal investigation - Terminate service	M M
Failure to install monitoring equipment	Delay of less than 30 days	0	NOV	I, PC
	Delay of more than 30 days	1	AO to install with fine for each additional day	PC
	Recurring, violation of AO	4	- Civil action - Criminal investigation - Terminate service	PC M M
Permit compliance schedule	Missed milestone less than 30 days, will not affect final milestone	0	NOV	PC
	Missed milestone more than 30 days, will affect final milestone (good cause)	1	AO and fine	PC

Noncompliance	Nature of violation	Category	Enforcement Response(s)	Personnel
	Missed milestone more than 30 days, will affect final milestone (no good cause)	3	- Show cause order - Civil action - Terminate service	PC, M M M
	Recurring violation or violation of AO schedule	4	- Civil action - Criminal investigation - Terminate service	M M M
Other Permit Violations				
Wastestream diluted in lieu of pretreatment	Initial violation	1	AO and fine	PC
	Recurring	2	- Show cause order - Terminate service	PC, M M
Failure to mitigate noncompliance or halt production	Does not result in harm	2	NOV	PC
	Does result in harm	4	- AO and fine - Civil action	PC M
Failure to properly operate and maintain facility	Does not result in harm	1	NOV	I, PC
	Does result in harm	3	- AO and fine - Civil action	PC M
Violations Detected During Site Visits				
Entry denial	Entry denied or consent withdrawn; copies of records denied	1	Obtain warrant and return to IU	I, PC

Noncompliance	Nature of violation	Category	Enforcement Response(s)	Personnel
Illegal discharge (violation of general discharge prohibitions)	No harm to POTW or environment	2	AO with fine	PC
	Causes harm or evidence of intent and/or negligence	3	- Civil action - Criminal investigation	M M
	Recurring violation AO	4	Terminate service	M
Improper sampling	Unintentional sampling at incorrect location	0	NOV	I, PC
	Unintentionally using incorrect sample type	0	NOV	I, PC
	Unintentionally using incorrect sampling technique	0	NOV	I, PC
Inadequate recordkeeping. Failure to mitigate noncompliance	Files incomplete or missing (no evidence of intent)	0	NOV	I, PC
	Recurring	2	AO and fine	PC
Failure to report additional monitoring	Inspection finds additional files (unintentional)	1	NOV	I, PC
	Recurring (considered falsification)	3	AO and fine	PC

Time Frames for Enforcement Responses

A. All violations will be identified and documented within 5 days of receiving compliance information.

B. Initial enforcement responses involving contact with the IU and requesting information on corrective or preventative action(s) will occur within 15 days of detection of violation.

C. Follow-up action for continuing or recurring violations will be taken within 60 days of initial enforcement response. For all continuing violations, the response will include a compliance schedule.

D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

E. All violations meeting the criteria for significant, noncompliance will be addressed with an enforceable order within 30 days of the identification of the significant noncompliance.

III. ENFORCEMENT RESPONSES

The following paragraphs describe the various types of enforcement response, procedures, and person(s) responsible for identifying and implementing each level of response, and the time frames for determining that a violation has occurred and for initiating the appropriate response action. Most of this information has already been provided in Section IV, Table IV.1 (Enforcement Response Plan) and the written formats to be used in preparing the various responses will be taken from the previously cited guidance document.

Notice of Violation

NOVs will be sent to any user found to be in violation of the SUO, IU permit, or any other applicable document. As a general rule, NOVs will be issued by the Field Inspector or the Pretreatment Coordinator for instances of minor noncompliance and will serve as an official notification to the user that a violation has occurred. Initial enforcement responses involving NOVs will occur within 15 days of violation detection. IU response to the NOV will commence with 10 days of receipt of the NOV and will include an explanation of the violation, a plan for satisfactory correction, and contingencies for prevention of future occurrences.

Consent Orders

In certain instances, the Water Systems Manager or his designee will enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the IU responsible for the noncompliance. Such orders will also serve as compliance orders and/or schedules for the IU and

failure to adhere to the conditions of the consent order will constitute significant noncompliance.

Show Cause Hearing

The Water Systems Manager, Pretreatment Coordinator, or their designee may order any IU which violates conditions of the SUO or its permit to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reason(s) for such action, and a request that the user show cause why the proposed enforcement action should not be taken. Notice of the meeting shall be served personally or by registered or certified mail at least 10 days prior to the hearing. If the IU fails to appear as notified, immediate enforcement action will ensue.

Cease and Desist Order

If the POTW finds that an IU has violated or continues to violate the Sewer Use Ordinance or its permit, the Water Systems Manager may issue an order to cease and desist all such violations and direct the party in noncompliance to do one of the following:

(1) Comply with the order

(2) Take appropriate remedial or preventive action needed to properly address a continued or threatened violation including, but not limited to, halting operations and terminating the discharge.

Termination of Service

The Water Systems Manager may suspend the wastewater treatment service and/or revoke an industrial user permit when necessary if, in the opinion of the POTW, the discharge presents or may present potential or actual danger to persons, the environment, causes interference to the POTW, or causes the POTW to violate conditions of its NPDES permit.

Civil penalties will be assessed based on the type and severity of violation outlines in the Enforcement Response Plan found in Section IV, Table IV.1. Penalties will be assessed in an amount not to exceed $10,000 per day for each violation. The amount of penalty will be determined using the following factors:

(1) Whether the penalty imposed will be a substantial economic deterrent to the noncompliance;

(2) Any damages to the POTW due to the noncompliance which also includes any penalties, costs, and attorney's fees incurred by the POTW as a result;

(3) Cause of the discharge or violation;

(4) The severity of the noncompliance and its effect on the POTW and upon the quality of the receiving waters;

(5) Effectiveness of action taken by violator to rectify the problem;

(6) The economic benefit gained by the violator.

The Water Systems Manager and Lexington Water Systems Board and, at their discretion, may establish or adopt a schedule of the amount of civil penalty which can be assessed for certain specific violations or categories of violations. The method used to determine penalty amounts has been determined and can be seen in Section IV.

Tracking of enforcement-related situations will primarily be the responsibility of the Field Inspector and the Pretreatment Coordinator. Compliance status worksheets will be updated on a monthly basis for each IU. These worksheets will provide instant updates of the compliance status of the IUs and allow personnel to flag noncompliance situations at a glance.

Currently, all IUs which are permitted are sampled semi-annually by the POTW and submit discharge self-monitoring reports to the POTW monthly. Demand monitoring is instituted when warranted. Scheduled and unscheduled IU facility inspections are performed monthly and reorganized to provide better tracking and identification of Significant IUs. It is hoped that these actions will provide an effective means of tracking compliance status of IUs quickly and instituting necessary enforcement proceedings in a timely manner. The proposed time frames for initiating enforcement proceedings can be found in the Enforcement Response Plan in Section II.

ORDINANCE NO. 980003

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF LEXINGTON TENNESSEE.

WHEREAS some of the ordinances of the City of Lexington are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Lexington, 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 "Lexington Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF LEXINGTON, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Lexington 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 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 five hundred dollars ($500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

. . . . Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, June 2, 19 98

Passed 2nd reading, July 7, 19 98.

Mayor

Recorder